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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA V. KARL BRANDT ET AL. (CASE I)

NOVEMBER 21, 1946-AUGUST 20, 1947

Roll 4

Transcript Volumes (English Version)

Volumes 7-9

Jan. 30-Feb. 19, 1947



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INTRODUCTION

On the 46 rolls of this microfilm publication are reproduced the records of Case I (*United States of America v. Karl Brandt et al.*, or the "Medical" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 30 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. The prosecution and defense briefs and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-570, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in four bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, the U.S. district court, the Secretary of Defense, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case I was heard by U.S. Military Tribunal I from November 21, 1946, to August 20, 1947. The records of this case, as the

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records of the other Nuernberg and Far East (IMTFE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Brandt case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the International Military Tribunal against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the Charter of the International Military Tribunal.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the International Military Tribunal and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Brandt case consisted largely of medical experiments performed on defenseless concentration camp inmates against their will; "euthanasia" carried out on the mentally defective, the physically sick, the aged, and ethnic and racial groups; and the murder of concentration camp inmates for the express purpose of collecting skulls and skeletons for the Anatomical Institute of the Reich University of Strassburg. The following medical experiments were conducted:

1. High altitude: to investigate effects of low pressure on persons.
2. Freezing: to test human resistance to extremely low temperatures.
3. Malaria: to develop controls over the recurring nature of the disease.
4. Mustard gas: part of a general research program in gas warfare.
5. Sulfanilamide: to test the efficacy of the drug in bone muscle and nerve regeneration and bone transplantation.
6. Seawater: to test methods of rendering seawater potable.
7. Epidemic jaundice: to develop an antitoxin against the disease.
8. Sterilization: to test techniques for preventing further propagation of the mentally and physically defective.
9. Typhus: to investigate the value of various vaccines.
10. Poison: to test the efficacy of certain poisons.
11. Incendiary bomb: to find better treatment for phosphorus burns.

The prosecution alleged and the judgment confirmed that these experiments were not isolated acts of individual doctors and scientists on their own responsibility but that they were the result of high-level policy and planning. They were carried out with particular brutality, often disregarding all established medical practice. Consequently, large numbers of the victims died in the course of or as a result of the experiments.

The euthanasia program was the direct result of a directive by Hitler of September 1, 1939. It resulted in the secret killing not only of aged, insane, incurably ill, and deformed German citizens in sanatoriums in Germany but also in the clandestine murder of foreign workers. The killing in gas chambers and by injections in the sanatoriums served as a proving ground for these forerunners of much larger installations in the mass extermination camps.

In addition to these experiments, over 100 concentration camp inmates were killed for the purpose of obtaining their skeletons. Their ghastly remains were found in Strassburg by Allied troops.

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The transcripts of the Brandt case include the indictments of the following 23 persons all of whom were physicians except defendants Rudolf Brandt, Viktor Brack, and Wolfram Sievers:

Karl Brandt: Personal physician to Adolf Hitler, Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS, Reichskommissar fuer Sanitaets- und Gesundheitswesen (Reich Commissioner for Health and Sanitation), and member of the Reichsforschungsrat (Reich Research Council).

Kurt Blome: Deputy [of the] Reichsgesundheitsfuehrer (Reich Health Leader) and Plenipotentiary for Cancer Research in the Reich Research Council.

Rudolf Brandt: Standartenfuehrer (Colonel) in the Allgemeine SS, Persoenlicher Referent von Himmler (Personal Administrative Officer to Reichsfuehrer SS Himmler), and Ministerial Counselor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

Joachim Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Oberster Hygieniker, Reichsarzt SS und Polizei (Chief Hygienist of the Reich Physician SS and Police), and Chef des Hygienischen Institutes der Waffen SS (Chief of the Hygienic Institute of the Waffen SS).

Helmut Poppendick: Oberfuehrer in the SS and Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei (Chief of the Personal Staff of the Reich Physician SS and Police).

Wolfram Sievers: Standartenfuehrer in the SS, Reich Manager of the "Ahnenerbe" Society and Director of its Institut fuer Wehrwissenschaftliche Zweckforschung (Institute for Military Scientific Research), and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

Karl Genzken: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS and Chef des Sanitaetsamts der Waffen SS (Chief of the Medical Department of the Waffen SS).

Karl Gebhardt: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS, personal physician to Reichsfuehrer SS Himmler, Oberster Kliniker, Reichsarzt SS und Polizei (Chief Surgeon of the Staff of the Reich Physician SS and Police), and President of the German Red Cross.

Viktor Brack: Oberfuehrer in the SS and Sturmbannfuehrer (Major) in the Waffen SS and Oberdienstleiter, Kanzlei des Fuehrers der NSDAP (Chief Administrative Officer in the Chancellery of the Fuehrer to the NSDAP).

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Waldemar Hoven: Hauptsturmfuehrer (Captain) in the Waffen SS and Chief Physician of the Buchenwald Concentration Camp.

Herta Oberheuser: Physician at the Ravensbrueck Concentration Camp and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Fritz Fischer: Sturmbannfuehrer in the Waffen SS and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Siegfried Handloser: Generaloberstabsarzt (Lieutenant General, Medical Service), Heeressanitaetsinspekteur (Medical Inspector of the Army), and Chef des Wehrmachtsanitaetswesens (Chief of the Medical Services of the Armed Forces).

Paul Rostock: Chief Surgeon of the Surgical Clinic in Berlin, Surgical Adviser to the Army, and Amtschef der Dienststelle Medizinische Wissenschaft und Forschung (Chief of the Office for Medical Science and Research) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

Oskar Schroeder: Generaloberstabsarzt; Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens (Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe); and Chef des Sanitaetswesens der Luftwaffe (Chief of the Medical Service of the Luftwaffe).

Hermann Becker-Freyseng: Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force) and Chief of the Department for Aviation Medicine of the Medical Service of the Luftwaffe.

Georg August Weltz: Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force) and Chief of the Institut fuer Luftfahrtmedizin (Institute for Aviation Medicine) in Munich.

Wilhelm Beiglboeck: Consulting physician to the Luftwaffe.

Gerhard Rose: Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

Siegfried Ruff: Director of the Department for Aviation Medicine at the Deutsche Versuchsanstalt fuer Luftfahrt (German Experimental Institute for Aviation).

Hans Wolfgang Romberg: Physician on the staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

Konrad Schaefer: Physician on the staff of the Institute for Aviation Medicine in Berlin.

Adolf Pokorny: Physician, specialist in skin and venereal diseases.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The ruling of the tribunal disregarded this count, hence no defendant was found guilty of the crime charged in count one. Count two was concerned with war crimes and count three, with crimes against humanity. Fifteen defendants were found guilty, and eight were acquitted on these two counts. Ten defendants were charged under count four with membership in a criminal organization and were found guilty.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 7 of the 23 defendants (Blome, Pokorny, Romberg, Rostock, Ruff, Schaefer, and Weltz). Death sentences were imposed on defendants Brack, Karl Brandt, Rudolf Brandt, Hoven, Gebhardt, Mrugowsky, and Sievers, and life imprisonment on Fischer, Genzken, Handloser, Rose, and Schroeder; varying terms of years were given to defendants Becker-Freyseng, Beiglboeck, Oberheuser, and Poppendick.

The English-language transcript volumes are arranged numerically, 1-30; pagination is continuous, 1-11538. The German-language transcript volumes are numbered 1a-30a and paginated 1-11756. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Several hundred pages are added to the transcript volumes and given number plus letter designations, such as page number 1044a. Page 1 in volume 1 (English) is preceded by pages numbered 001-039, while the last page of volume 28 (English) is followed by pages numbered 1-48.

Of the many documents assembled for possible prosecution use, 570 were chosen for presentation as evidence before the tribunal. These consisted largely of orders, directives, and reports on medical experiments or the euthanasia program; several interrogation reports; affidavits; and excerpts from the *Reichsgesetzblatt* (the official gazette of Reich laws) as well as correspondence. A number

of the medical reports were accompanied by series of photographs and charts of various experiments.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles with an occasional carbon of the original. In rare cases the exhibits are followed by translations or additional certificates. A few exhibits are original documents, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
301	NO-1314	410	NO-158
307	NO-120	441	NO-1730
309	NO-131	443	NO-890
310	NO-132	451	NO-732
357	1696 PS	462	NO-1424
362	628 PS	507	NO-365
368	NO-817	546	NO-3347
403	616 PS		

No certificate is attached to several exhibits, including exhibits 433, 435-439, 462, 559, and 561. Following exhibit 570 is a tribunal exhibit containing the interrogation of three citizens of the Netherlands. Number 494 was not assigned, and exhibit 519 is followed by 519a and 519b.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, *Reichsgesetzblatt* excerpts, and other items. There are 901 exhibits for the defendants. The defense exhibits are arranged by name of defendant and thereunder by exhibit number, each followed by a certificate wherever available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. Pages 81-84 of prosecution document book 1 are missing. Books 12, 16, and 19 are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Prosecution and defense briefs are arranged alphabetically by names of defendants; final pleas and defense answers to prosecution briefs follow a similar

scheme. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

The English-language final pleas, closing briefs, and replies to prosecution briefs of several defendants are missing, as are a few German-language closing briefs and replies to prosecution briefs.

At the beginning of roll 1 are filmed key documents from which Tribunal I derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the Charter of the International Military Tribunal, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of the members of Tribunal I and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Brandt case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Milch case, M888, the List case, M893, the Greifelt case, M894, and the Ohlendorf case, M895. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office: 1950-53), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.

John Mendelsohn wrote these introductory remarks and arranged the records for microfilming in collaboration with George Chalou.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 4

Target 1

Volume 7

Jan. 30-Feb. 5, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 7**

**TRANSCRIPTS
(English)**

30 January – 5 February 1947 pp. 2207–2553A

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 30 January 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in Court.

THE MARSHAL: May it please your Honor, the defendant Oberheuser is absent today in continuation of the illness for which she has been absent several days. The defendant Karl Brandt is also absent, having been excused by this Tribunal yesterday morning.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants save the defendant Oberheuser, absent on account of sickness in accordance with the doctor's certificate which I have, and the defendant Karl Brandt, having been excused by this Tribunal, and the defendant Brandt's counsel. The secretary-General will file this certificate in the absence of the defendant Oberheuser.

Counsel for defense may proceed with their arguments.

DR. FRITZ FLEMING (Attorney for Mrugowsky): Mr. President: The defendant Mrugowsky is charged in the first place under Count I of the indictment with a common design or a conspiracy.

I shall prove in respect to this Count that the provisions of Control Council Law No. 10 concerning conspiracy on which the Indictment is based on this point do not apply to the case which is here under review. As a precautionary measure I shall further prove that the actual conditions of a conspiracy are non-existent.

Under Count 2 of the Indictment, War Crimes, Mrugowsky is charged with High altitude and freezing experiments.

Malaria experiments, and

Sea water experiments

Sulfanilamide experiments and

Epidemic jaundice experiments

Sterilization experiments and

Typhus experiments,

Experiments with poison and

Incendiary bomb experiments.

He is, furthermore, charged under Count 3, Section 11 of the Indictment

With Crimes against Humanity on account of the same experiments.

PAGE TWO

In connection with

The altitude experiments Count II, 6A of the Indictment

The Malaria experiments Count II, 6C of the Indictment

The sea water experiments Count II, 6D of the Indictment

The experiments with epidemic jaundice Count II, 6H of the Indictment

The Prosecution in presenting their evidence submitted nothing to show that the defendant Mrugowsky had any part in these experiments. The Prosecution did not submit one document nor called one witness to prove his participation in the said experiments. The Indictment is entirely unsubstantiated in these respects. It has merely been asserted that the defendant Mrugowsky, together with other defendants, is guilty of a special responsibility and participation in these experiments.

As regards the

Sterilization experiments Count 2, 6I of the Indictment

The Prosecution have merely produced, in order to charge the defendant Mrugowsky, an affidavit of the co-defendant Rudolf Brandt, dated 19 October 1946, Document No. 440, Prosecution Exhibit 141. This reads as follows at the end:

"Blumenreuther Poppendick and Mrugowsky probably also knew about this."

This is a mere assumption on the part of Brandt which is given without

any more detailed support and without reference to actual data and does not therefore constitute a proof of Mrugowsky's participation in the sterilization experiments.

PAGE THREE:

The Prosecution have neither presented nor given any other proof for Mrugowsky's participation in sterilization experiments or even only for his knowledge of such experiments.

The Indictment against Mrugowsky is therefore inadequate in the points which I have just mentioned and I move that

The Indictment be rejected as inadequate in the points which I have just mentioned, Count II, 6A, C, D, H & I of the Indictment. And also in regard to III, 11 of the Indictment.

The defendant Mrugowsky is further charged in connection with

Freezing experiments, Count II, 6B of the Indictment

Sulfanilamide experiments, Count II, 6E of the Indictment

Typhus experiments, Count II, 6J of the Indictment

Experiments with poison, Count II, 6K of the Indictment

Experiments with incendiary bombs, Count II, 6L of the Indictment.

With War Crimes and on account of the same experiments under Count III, 11 of the Indictment with Crimes Against Humanity.

On these Counts, I shall call the defendant Mrugowsky and other witnesses to the witness stand. I shall refer to the evidence given by witnesses interrogated by the Prosecution and by co-defendants as well as to the evidence of the co-defendants given in the witness stand, I shall submit documents and refer to documents submitted by the Prosecution and co-defendants.

PAGE FOUR

I shall prove that the so-called Ding diary was pieced together subsequently and thus is a fake which has no value as evidence whatsoever. I shall prove that the so-called work report drawn up by Ding for 1943, which the Prosecution have submitted, is a draft which has no value as evidence.

I shall do all this in order to prove that the defendant Mrugowsky under

the counts of the Indictment was not a principal in, an accessory, to, did not order, abet nor took a consenting part in, and that he was not connected with the performance of medical experiments mentioned above without the subjects' consent and that he committed neither murders nor brutalities nor cruelties, tortures, atrocities and other inhumane acts.

As regards the freezing experiments I shall prove that the defendant Mrugowsky had no part in these experiments at all. The Prosecution have submitted no conclusive evidence of his participation in these experiments.

As regards the sulfanilamide experiments, I shall prove that the defendant Mrugowsky was not in any way involved in these experiments. The Prosecution have not claimed that he took part in the performance of the experiments, and I shall prove that he had no association whatsoever with the sulfanilamide experiments.

As regards the spotted typhus experiments, the Prosecution have not claimed that Mrugowsky was involved in the experiments at Natzweiler.

As regards the spotted typhus experiments at Buchenwald Concentration Camp, the Prosecution have presented comprehensive evidence. They have repeatedly claimed that Mrugowsky took part in these experiments and that he is responsible for them together with others.

I shall prove that Mrugowsky objected when his superior, Grawitz, for the first time referred to the intention to have spotted typhus experiments possibly performed on inmates of a concentration camp.

I shall prove that the experiments on concentration camp inmates were ordered against Mrugowsky's opposition by Himmler and Grawitz. Mrugowsky did not become actively involved in these experiments, but Dr. Ding was directly instructed by Grawitz to perform the experiments.

The Prosecution have not claimed that Mrugowsky took an active part even in one single spotted typhus experiment.

I shall prove that during the whole period during which spotted typhus experiments were carried out, he was at Buchenwald only twice and not in connection with these experiments but for other reasons.

I shall further prove that the spotted typhus experiments which General Taylor himself calls on page 115 of the German record of 9 December 1946, "The most important but fatal spotted typhus research" were no crime at all.

On the contrary, they constituted a research work which had to be carried out unless further hundreds of thousands of men, whose lives could be saved only with the help of these experiments, were to die of spotted typhus.

I should prove that the so-called checks introduced in the spotted typhus serial experiments were unavoidable if the end was to be achieved to obtain quickly a clear idea of the effectiveness of the various vaccines and drugs. But I shall above all prove through the evidence given by witnesses of the prosecution that the number of deaths given in the documents furnished by Ding and presented by the Prosecution is wrong.

As regards the experiments with poison, the Prosecution mentioned three cases in presenting their evidence:

In the first case which was carried out upon the initiative of the SS-Tribunal at Buchenwald, it is not quite clear whether the Prosecution intends to charge Mrugowsky in the same way as the others. I shall prove in this case that he was not involved. One of the two other cases is the killing of six people by poison, mentioned by Dr. Ding in his diary as "A special experiment performed on six persons by order of Mrugowsky and of the Reich Criminal Police Office."

I shall prove in this case that the Prosecution have failed to give proof that Mrugowsky ordered this killing or that he even knew about it.

As regards the experiments with poison there remains the killing of three people at Sachsenhausen Concentration Camp, on which Mrugowsky reports in his letter to the Reich Criminal Police Office, date 12 December 1944, Document No. 201. I shall prove that this was not an experiment to ascertain how much time it takes to kill a man in the indicated manner - that is what the Prosecution assert - but an execution which had been caused by the Reich Criminal Police Office.

As regard the incendiary bomb experiments I shall prove that they were performed by Ding, not by order of Mrugowsky, but by order of other agencies.

and that Krugowsky was not involved in these experiments at all and merely received a subsequent report when the experiments had been concluded. V

In addition to the experiments specifically mentioned in the Indictment, the Prosecution have presented further evidence concerning a number of further experiments which it includes in the Indictment. I shall prove also in respect to these experiments that Krugowsky was not in any way concerned with them.

The evidence which I have mentioned, in connection with war crimes, will also show that Krugowsky has in no way committed crimes against humanity.

Krugowsky does not deny his membership in the SS, which was declared a criminal organization by the International Military Tribunal. I shall prove, however, that in many questions, some of which were of decisive importance, he was in open opposition to the SS.

In conclusion I repeat my motion to declare the Indictment against Krugowsky inadequate insofar as it is concerned with.

High altitude experiments
Malaria experiments
Sea-Water Experiments
Experiments with epidemic jaundice.
Sterilization experiments

concerning experiments under Count II 6 as well as Count III 11 of the Indictment.

Dr. Boehm (Defense Counsel for Defendant Poppendick):

Mr. President, members of the Tribunal:

The defendant Poppendick is mentioned in the Indictment as Oberfuehrer in the SS (Senior Colonel) and chief of the Personal Staff of the Reich Physician SS and Police, and, like all other defendants, he is indicted under Counts 1, 2, and 3, as well as under Count 4 as a member of the SS after 1939.

He is charged with special responsibility in the high altitude and freezing experiments, in the malaria and sulfanilimide experiments, as well as in sea-water experiments and experiments in respect to epidemic jaundice and poison, and finally in respect to sterilization and incendiary bomb experiments.

In presenting their evidence over a period of about four weeks, the Prosecution have submitted far more than four hundred documents, of which only six contain Poppendick's name in one form or another.

The Prosecution have called twenty-four witnesses to the stand and have interrogated them in great detail. Only one witness knew Poppendick's name. No further evidence concerning the defendant Poppendick was submitted by the Prosecution.

In opening the defense of the defendant Poppendick, it is necessary to correct the designation which has so far been used by the Prosecution in respect to Poppendick when they called him the chief of the Personal Staff of the Reich Physician SS and Police and to replace it with the more correct name "Chief of the Personal Secretariat with the Reich Physician SS and Police."

This is to prevent at the outset misunderstandings in respect to the position held by the defendant Poppendick.

It will now be the task of the defense counsel of the defendant Poppendick to define Poppendick's position with the Reich Physician SS and Police as well as his activity in the medical service of the SS before and after its reorganization in 1943 and furthermore, critically to consider his association with certain experiments with which he is charged by the Prosecution. Although the Prosecution have in no case furnished even

approximately conclusive proofs that the defendant Poppendick actually was the deputy or the assistant of the Reich Physician SS and Police and had, as such, knowledge of all secret machinations, the Defense will clear up Poppendick's activity as chief of the Personal Secretariat, be it only in the interest of finding the objective truth.

The Defense will then deal in detail with the experiments with which the defendant Poppendick is associated one way or another and in connection with which he is represented as having a special responsibility.

The five essential documents which are to be above all the subject of a more detailed examination and of counter evidence are:

1. Certain entries made in Sievers' diary of 1944, PS-3546, Prosecution Exhibit 123.
2. Ding's Acridine Publication, no. 582, Prosecution Exhibit 286, which is stamped "No objection from the point of view of the medical service by order (signed) Poppendick."
3. The letter addressed by the Reich Physician SS and Police to Dr. Ding concerning the research done by Dr. Vaernet No. 1300, Prosecution Exhibit 259, bearing the signature, "By order Poppendick."
4. Balachowsky's affidavit No. 484, Prosecution Exhibit 291, about the ominous supervisory committee in which Poppendick, who is promoted Gruppenfuehrer by the author, is alleged to have been a member.
5. Rascher's alleged minutes on a conversation between Rascher, Grawitz, Poppendick, concerning the freezing memo sheet, No. 320, Prosecution Exhibit 103.

The witnesses whom the defense of the defendant Poppendick will call will make their statements essentially in the form of affidavits. The Defense plan to call only a few of them to the witness stand. The witnesses will testify on the personality of the defendant Poppendick, on his position in the Race and Settlement Head Office, and with the Reich Physician SS and Police, as well as on his association with certain experiments with which he is charged.

As regards the experiments made by the Danish physician, Dr. Vaernet,

as well as Dr. Ding's Acridine research and the incendiary bomb experiments, the Defense will submit expert opinions from medical experts.

Although no information has been received up to date as to the whereabouts of the witnesses requested by the Defense, it is hoped that at least some of the requested witnesses can be heard on the questions under review.

The Defense at any rate have done all in their power to have the necessary witnesses available. Should, however, apart from the submission of a few affidavits and other documents, this whole group of questions be ultimately dealt with only by the defendant himself as a witness in his own cause or by questioning of his co-defendants, this should not place the Defense at a disadvantage on the grounds that the evidential value of such statements which are made under oath is considered very small.

It is certainly possible, particularly in this trial, for the P
Prosecution to check the credibility of the defendants in respect

to their evidence by confronting them and thus to assist in correctly appreciating the evidence value of their statements.

The work of the defense in this trial is considerably more difficult than that of the defense in the trial against Hermann Goering and others. In the former proceeding at Nuremberg the charges made against the defendant were laid down in special trial briefs and the whole evidence of the prosecution in respect to the individual defendants was presented in one case after the other. Although Article 4 of Decree Number 7 concerning the procedure and competence of certain military tribunals issued by the Military Government of Germany specifically provides that the indictment should give defense the charges simply, clearly, and in sufficient detail, the indictment in this Case Number 1 against Karl Brandt and others, and the whole presentation of evidence by the prosecution, have refrained from specifying in greater detail the charges against every individual defendant.

On the contrary, in this trial the prosecution has presented their evidence strictly according to the subjects dealt with and have not defined in greater detail what the charges against the individual defendants are. They have considered in each case the individual experiments and the evidence presented in connection with them as a whole and have only occasionally commented upon certain documents concerning the defendants individually.

The defense therefore is confronted in this case with a certainly not very easy task critically to appreciate the individual charges against the defendants, which have only been very loosely or very approximately defined.

This is particularly striking in the case of the defendant Poppendick. His superior, Reich physician Dr. Grawitz, having died, Poppendick is now to do what he never did during Grawitz's lifetime; he is to take his place here.

Poppendick, who was never authorized to take Grawitz's place and who had never received other powers from his chief, finds himself here in the defendants' dock and is to be rendered responsible for Dr. Grawitz's deeds. That at least is what the defense supposes they can infer from the presentation of evidence by the prosecution.

In view of the evidence so far given, it will not be difficult for the defense to refute the indictment against Poppendick on all counts as unfounded, if the requested defense witnesses are made available and can be heard at Nuernberg.

DR. WEISGERBER (Counsel for the defendant Sievers): Mr. President, Your Honors:

On 1 July 1935 the society "Das Ahnenerbe" was founded and entered on the registry of associations at the district court in Berlin. Aim and purpose of the "Ahnenerbe" were to conduct research into the language, culture, history, and geography of the Indo-European peoples. That is to say, an institution devoted purely to research in the liberal arts. Heinrich Himmler held the top position in this society; his title was President and Chairman. Under him the position of curator and scientific director was held from 1935 to 1937 by the professor of the Pre-History of Ideas, Dr. Hermann Wirth, Berlin, and from 1937 on by Professor Dr. Walter Wuest of Munich. Under the man, in turn, was the General Secretary or, as he was called from 1937 on, the Reich Business Manager. This position was held by Wolfram Sievers. From 1942 on the society "Das Ahnenerbe" - which until then, although it had been under Himmler's protection, had been outside the hierarchy of the NSDAP or the SS - became an office under the Main Office "Personal Staff of the Reichsfuehrer SS". Professor Wuest was given the title "Office Chief", while Sievers' title of Reich Business Manager remained unchanged. His activity was and continued to be of a purely administrative nature.

Sievers was neither in a position to give research assignments, nor was he able to interfere in any way in the scientific part of the experiments. The clarification of this point seems to me to be urgently necessary, in order not to leave uncontested the completely deviating opinion of defense counsel for the defendant Schroeder, asserting that Dr. Haagen stood in relationship of subordination to the defendant Sievers.

Even before 1942 the then Oberarzt of the Luftwaffe, Dr. Rascher, had managed to promote his particularly ambitious research aims with Himmler. Nothing would have been more suitable than for Dr. Rascher's ostensible re-

search work, which had nothing to do with the liberal arts, than to be incorporated into the medical service of the SS. Instead, Himmler incorporated Rascher's enterprises into the "Ahnenerbe". Because Dr. Rascher's work was in a quite unrelated field, Sievers made an attempt to have Office Chief Wuest induce Himmler to withdraw his order. The intention of Reich Business Manager Sievers was of no avail due to the passivity of Office Chief Wuest. In spite of the apparent hopelessness of the case, Sievers on his own initiative, approached Himmler in an attempt to get rid of the undesirable addition to the Ahnenerbe. He was unsuccessful.

This was the beginning of a development, the tragic climax of which Sievers could not suspect, much less foresee. In the same year Himmler created the Institute for Military Scientific Research of the Waffen SS and Police. This institute comprised research projects in which Himmler was personally interested, almost all of them were war-connected; at first they were in part carried out on behalf of and with the assistance of the Luftwaffe. There was no uniform scientific direction. Himmler issued instructions to the heads of the individual sections, seven of which later came into existence. The Luftwaffe or the Reich Research Council also issued orders to individual institutes. The heads of these institutes made scientific reports to Himmler or to the Luftwaffe or the Reich Research Council. The Institute was financed exclusively from funds of the Waffen SS or the Wehrmacht but not from funds of the Ahnenerbe. Himmler assigned the administrative duties to the Reich Business Manager of the Ahnenerbe, the defendant Sievers.

This work brought Sievers in contact with things which lay exclusively in the medical field. Doctors carried out experiments of various kinds. Sievers, as a layman, had to procure materials, arrange for laboratories, pay expenses, conduct the correspondence, and perform other such administrative duties.

The prosecution has alleged that Sievers realized the criminality of all the experiments, or at least must have realized it. Through the nature of his work, it is alleged, he was guilty of complicity in part of the

crimes which are here charged. It will be my task to show and to prove to the Tribunal: first, to what extent the allegations of the prosecution are incorrect; second, to what extent the activity revealed by the documents which have been submitted was due to Siever's own initiative; and third, when and in which experiments Sievers realized or must have realized that they were irreconcilable with the rules of warfare and the principles of humanity.

I shall quite openly present the projects which Sievers realized were illegal and criminal. Thus we have come to the question: If Sievers realized that certain experiments were criminal, then why did he not immediately give up his position as Reich Business Manager of the Ahnenerbe and his work in the Institute for Military Scientific Research. Why did he not oppose Hitler's insane and criminal orders? Why did he do nothing to prevent people's suffering physical harm, often of the most severe kind, or even losing their lives in experiments?

This second part of my defense will bring me into the field of activity of a very considerable group of the German resistance movement which during the war undertook to overthrow Hitler's Reich by violence.

The prosecution has examined a number of foreign witnesses before this Tribunal, who had been arrested as members of a resistance group in their own country and sent to German concentration camps. They were there placed in the category of persons condemned to death. Today these determined and uncompromising fighters for freedom in their homelands are celebrated as heroes. Today no one asks whether these brave and fearless fighters committed deeds which, objectively considered, were irreconcilable with the rules of warfare or with the laws of humanity. They are not called to account before a tribunal. And why not? Because everything that they did in the struggle against the enemy power was done out of ardent love for their homeland, for their fatherland. Thus everything which they did is stripped of illegality and legalized.

In Germany, too there existed, from 1933 on, a constantly increasing resistance movement against National Socialism, the grave-digger of the German Reich. Since all the powerful resources of the state and Party were ruthlessly employed against everyone who opposed the National Socialist regime, the struggle against this regime was subject to its own laws. Men who were willing to take the utmost risks had to penetrate the positions of their political opponents in order, under various forms of camouflage, to undermine these positions and in painfully detailed work to make the preparations required for an armed uprising against a superior enemy. One of these men was Wolfram Sievers, whom a tragic fate has made a defendant in this trial. When Sievers, in the trial of Goering and others, proclaimed his membership in a resistance movement, Court and Prosecution were extremely skeptical of this assertion. There was at that time no occasion to examine his statements. But in the present trial Sievers must be given the opportunity, in his own defense, to prove that as early as 1931 a group which was strongly opposed to National Socialism deliberately sent him into the NSDAP in order to get as much insight as possible into this Party. From 1933 on he worked, on behalf of the resistance group, toward coming into contact with the highest Party authorities. This goal was achieved when, in 1935, he succeeded in becoming Business Manager of the Ahnenerbe. Thus, he had penetrated to the entourage of the Reichsfuehrer SS and the Police, Himmler, who united in his hands all instruments of power within the state. There began a period of great tension then. Sievers had to avoid carefully anything that might have brought him under suspicion of being opposed to the National Socialist regime. If he wanted to achieve his goal, he had to attain to the circle of Himmler's confidants.

In 1942, Sievers was confronted with a fateful decision, when, through Himmler's order, he came in contact with the wretched human experiments. Should he, when he recognized in this case or that the illegality of the experiments which Himmler ordered, refuse to continue to perform his duties in any form? With his friends from the resistance movement, he deliberated what was to be done. Would the human experiments be stopped, if his opposition was expressed more or less clearly? Never. Would the resistance

movement against the National Socialist regime, in the determined preparation of an overthrow by violence, lose in Sievers one of its most important exponents? Yes. Therefore the decision was that Sievers had to remain at his post. In consistent execution of these instructions Sievers therefore had to master the duties which were assigned to him - the execution of which made enormous demands on his spiritual resistance in such a way that there could be no suspicion of a hostile attitude. There thus arose for Sievers the undeniable necessity of performing what administrative duties fell to his lot by virtue of his position, even in his contact with the human experiments.

Through witnesses and affidavits, including a number of members of foreign resistance movements whose lives Sievers saved, I shall prove to the Tribunal 1) that the resistance movement to which Sievers belonged was of considerable importance, 2) that Sievers as an exponent of this movement was of great importance in the Reichsfuehrung SS, 3) that Sievers had made preparations for an attack on Hitler and Himmler, the execution of which, however, was made impossible by the action taken by the officers' group and the situation which followed the unsuccessful attack on 20 July 1944, 4) that Sievers, in the execution of the duties which devolved upon him by virtue of his position, did no more than he had to do to carry out the orders given him.

I intend to call five witnesses; two of them will testify to the activity of the Defendant Sievers, as Reich Business Manager in connection with complicity in crimes with which he is charged, two other witnesses will testify to the importance of the resistance movement, and one witness will testify to Sievers' activity within the resistance movement to which he belonged. Finally, I intend to call the Defendant Sievers himself to the witness stand, and I shall examine several of the co-defendants on individual points.

I hope that I shall thus be able to give the Tribunal the necessary evidence for a judgment which will do justice to the special situation in Sievers' case.

DR. FRITZ (Counsel for the defendant Rose): Mr. President, Your Honors: The defendant professor Dr. Gerhard Rose was appointed vice-president of the Robert Koch Institute in Berlin in 1943 a research institute of worldwide fame for the control of contagious diseases, after he had been a member of

this Institute already, since 1936.

In 1939, at the beginning of the war he was drafted into the German Wehrmacht as consulting hygienist and tropical hygienist with the Chief of the Medical Service of the German Luftwaffe. At first he was given the rank of Oberarzt of the reserve and was finally promoted on 1 May 1945 to the rank of Generalarzt of the reserve - I wish to emphasize: of the reserve.

Perhaps it could be asked, whether the defendant Rose attained the high position of vice-president and the high military rank because of his-- if only nominal -- membership in the NSDAP, or because he is "one of the most eminent scientists" in the fields of hygiene and tropical medicine as he was introduced to Your Honors by General Taylor in his opening speech of 9 December 1946. The further evidence in this case will show that the latter is the answer.

At first it is the task of the defense to make clear

1) whether and how Rose has filled the position of Vice-president of the Robert Koch Institute and

2) what were his tasks, authorities, and competencies, in his position as consulting hygienist and tropical doctor with the chief of the medical department of the Luftwaffe.

This clarification will show:

a) that Rose, despite his high position as vice-president and despite his high military rank which he finally attained, did not take part in planning or in carrying out the experiments and measures indicted here, nor

b) that he was the superior either in the civil field or in the Wehrmacht of persons who participated in planning and carrying out these experiments and measures.

In the indictment professor Rose is charged with special responsibility for war crimes and crimes against humanity which are considered as such in the experiments of human beings with typhus and other contagious diseases in the concentration camps Buchenwald and Natzweiler and in the alleged experiments on human beings with hepatitis epidemics in the concentration camps Sachsenhausen and Natzweiler.

First, as far as the hepatitis epidemics experiments are concerned, I

may already now draw the attention of the Tribunal to the fact that the name Rose does not appear at all in document book No. 8 submitted by the prosecution in connection with this matter. Rose did not participate in the hepatitis research and moreover states that he had no knowledge of these alleged hepatitis experiments.

In the further course of this case I hope to be able to prove the accuracy of the Defendant Rose's statement.

As far as the typhus experiments are concerned, it is true that Rose - though he never worked on typhus - if only just once - was in Buchenwald while these experiments were being carried out. I believe to be able to prove beyond doubt that this visit to the concentration camp Buchenwald was not made because Rose was concerned with - or even approved of these experiments but that, on the contrary, this visit was connected with his fundamental objection to such experiments on human beings, which led to several protests by the defendant Rose. The witness Kogan has already forcibly drawn our attention to this.

Nor can it be denied that in the course of its presentation of evidence, the prosecution has produced some documents and heard some witnesses from which a layman could conclude a certain connection of the defendant Rose with the experiments of human beings in Buchenwald and Natzweiler.

Thus Mr. Hardy, for example, submitted document NO-122 - a letter by Professor Rose to Professor Haugen dated 3rd December 1943 with this reservation saying that he expected an explanation from Professor Rose. I hope to be able to offer this requested explanation to the High Court in the course of my presentation of evidence not only concerning this document but also concerning other existing correspondence, in a sense favorable to the defendant Rose.

In the course of its oral statement regarding the extent of the accusations against Rose, as contained in the indictment, the prosecution has even gone beyond those contained in the indictment.

Thus, it has also connected him with the malaria experiments by Professor Schilling which the latter carried out in the concentration camp of Dachau. It was evidently led to this because of the frequently recurring

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name of Rose in documents connected with Schilling's experiments in Dachau. The prosecution has in the first instance overlooked the fact that Professor Rose is a malaria expert of international repute and it is hardly imaginable that his name would not be mentioned when experts are discussing malaria. Over and above this I hope to be able to prove that the defendant Rose - who altogether rejected Schilling's research methods quite apart from his experiments in Dachau - also here stands wrongfully accused. The last vestige of doubt about this will be removed when in my presentation of evidence, I come to speak about the sanatorium of Pfaffenrode, where the defendant Rose on his part conducted malaria experiments and used malaria therapy up to the arrival of the Americans.

Finally, Professor Rose, as well as all of his co-defendants, are accused of having participated in a conspiracy to commit war crimes and crimes against humanity according to Count I of the Indictment.

The prosecution sees proof of the existence of such a conspiracy especially in the repeated meetings of the consulting physicians during the war at the conferences of the consulting specialists at the military medical academy. I shall prove that the defendant Rose, as far as his participation in such conferences is concerned, and in other respects, can on no account be considered a conspirator, neither as a leader nor as organizer nor as initiator or abettor. For it is just his attitude, be it at such a conference, be it at a meeting of prominent physicians, or be it towards the Reich health leader Dr. Conti, or towards the president of the Robert Koch Institute, Professor Gildemeister, which shows that there can be no question of this.

In the course of my presentation of evidence, I plan to examine the defendant Rose on his own case, to present various documents and affidavits as exhibits to the Tribunal and finally to question several witnesses and experts.

DR. SAUTER (Counsel for the Defendant Dr. Siegfried Ruff): Gentlemen of the Tribunal, I have now the task of submitting to you in what manner the Defendant Dr. Ruff intends to conduct his defense:

I) The subject of the indictment against Dr. Siegfried Ruff deals merely with his participation in the high altitude experiments carried out in Dachau, as they are explained in Document Book 2. No further count of the indictment mentions Dr. Ruff, except for the question of "Conspiracy." Consequently, the defense on its part, can limit itself to dealing with these Dachau high altitude experiments.

II) The aim of Dr. Ruff's defense will be to establish the following facts:

1) The high altitude experiments carried out in Dachau by Dr. Runberg and Dr. Rascher with the approval of Dr. Ruff were necessary for the clarification of the problem of "the rescue of airplane crews from high

altitudes."

2) These experiments were prepared in an unobjectionable scientific manner by Dr. Ruff and his associate, Dr. Romberg, and were executed in an unobjectionable manner by Dr. Romberg.

3) While carrying out these experiments, Dr. Ruff knew that the only experimental subjects used for that purpose were German convicted criminals, who voluntarily put themselves at his disposal and who, as a reward for undergoing these experiments, were subsequently to be pardoned. Dr. Ruff made certain of these facts at the time by asking various participating experimental subjects.

4) Dr. Ruff did not know Dr. Rascher closely before the Dachau high altitude experiments. He was at that time introduced to him by an absolutely reliable source and considered him to be a conscientious physician of the Luftwaffe.

5) Behind Dr. Romberg's back, this Dr. Rascher proceeded to carry out still other experiments, to which Dr. Ruff never gave his consent and which he would never have approved had he been asked.

6) These other experiments of Dr. Rascher were in no way connected with the parachute descent experiments carried out by Dr. Romberg. Dr. Ruff and the German Air Force were not at all interested in these other experiments of Dr. Rascher's. It was only in the course of this present trial that Dr. Ruff found out in detail with what these so-called "experiments" of Dr. Rascher were concerned.

7) When Dr. Ruff heard through a report by Dr. Romberg that a fatality had occurred during these additional, that is to say unauthorized, experiments of Dr. Rascher, he (Ruff), ordered that these experiments be discontinued and had the low-pressure chamber returned from Dachau to Berlin, and he prevented having the low-pressure chamber put at their disposal during the subsequent period, although Dr. Rascher and various high SS offices repeatedly requested the return of the chamber to Dachau for the purpose of carrying out further experiments.

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8) Dr. Ruff is a serious and conscientious scientist, as will be confirmed by all witnesses. He is hard on himself but considerate towards his experimental subjects. His attitude was, on principle, that he would carry out his experiments in the first place on himself and with the voluntary associates of his institute.

9) Both before and after the experiments at Dachau, Dr. Ruff, together with his associates, carried out countless experiments on himself which, for the most part, were more unpleasant from a subjective point of view, and more dangerous from an objective point of view, than those experiments at Dachau of which Dr. Ruff knew and which he authorized.

III) Dr. Ruff intends to use the following as evidence: Altogether he has applied for 17 witnesses, all of whom were granted by the Tribunal. From most of these witnesses affidavits are already available, which will be submitted in the Document Book Dr. Ruff. I assume that the Prosecution, too, agrees to the submission of these affidavits. The nature of the testimony of the witnesses has been accurately described in the applications submitted to the Tribunal.

With reference to two of these witnesses, namely the two Americans, Dr. Wood and Dr. Baldes, both of whom are now again residing in the United States, I have submitted questionnaires on the 13th of January 1947, which are to be answered by the above-mentioned persons in their capacity as witnesses and experts and which, together with the answers, I intend to read into the record as soon as they will have been received. With reference to a further American citizen, Colonel Benford, I have applied on the 15th of January 1947 to obtain a statement of services rendered and a personal evaluation of the Defendant Dr. Ruff. From the autumn of 1945 until the autumn of 1946, Dr. Ruff was employed at an American Institute in Heidelberg, of which Colonel Benford was the chief.

I intend to hear only two witnesses in person here in the witness stand, namely the witnesses Dr. Walter Freitag and Karl Fohlmeister, for whom I applied as witnesses on December 13 and January 9 respectively, and whose examination in court has been granted by the Tribunal. If, for

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any reason, the personal appearance of these witnesses before this Tribunal cannot be carried out, then the Defendant Dr. Ruff is reserving for himself the right to submit affidavits from these two witnesses also.

The Defendant Dr. Ruff will also take the stand himself, in order to be examined as a witness. It appears suitable for this to be done before the other witnesses are called, so that Dr. Ruff can make the necessary explanations regarding the technical details of his experiments. The layman, too, will then be in a better position to understand and appreciate the testimony of the witnesses regarding these technical questions.

In the course of the direct examination of Dr. Ruff, I intend to have a short film, which had been made in the institute of the Defendant Dr. Ruff at the time, shown to the Tribunal. The purpose of this film is to enable the Tribunal and the Prosecution to make their own decisions about the high-altitude experiments carried out by Dr. Ruff, in particular in regard to the character and effects of the so-called "high-altitude-sickness," in order to enable the Tribunal to make its findings as to whether this "high-altitude-sickness" can be considered under the heading of a crime against humanity.

IV) As I have already mentioned, Dr. Ruff is accused of special responsibility by the Prosecution on one count only, that of the high altitude experiments at Dachau. It has not been alleged by the Prosecution that Dr. Ruff had in any way participated in other experiments at Dachau,-- for instance, in the freezing experiments of Dr. Rascher. However, he has also been indicted from the point of view of conspiracy. In this respect the case for the Prosecution is in no way specialized and is not supported by any evidence. Already today, on the strength of the evidence submitted by the prosecution, it is an established fact that Dr. Ruff, apart from the high-altitude experiments in the spring of 1942, had no contact whatsoever, no matter of what nature, with Dr. Rascher or with the SS or with the concentration camps. Particularly he was never a member of the SS or any other affiliated organization of the Party, which was connected with such experiments. During the period dealt with in this trial, Dr. Ruff

was not even a member of the Luftwaffe. The presentation of evidence on the part of the prosecution has already shown that Dr. Ruff was not present at a single one of the various meetings and congresses, where planned experiments were discussed.

It is, therefore, quite obvious that the charge of conspiracy cannot be proved against Dr. Ruff. The prosecution was not in a position to establish even one single concrete assertion in that respect against Dr. Ruff. It would, therefore, be in accordance with justice to dismiss the charge of conspiracy against Dr. Ruff immediately, since there is absolutely insufficient basis for the indictment in that respect.

I hereby apply for the immediate dismissal of the charge with reference to Conspiracy.

My other statements with reference to Conspiracy I am not going to repeat since a number of defense counsels have already submitted the legal basis with reference to that question, even if there were various differences in their arguments, and different results. This brings me to the end of the case of the Defendant Dr. Ruff.

DR. SAUTER: Mr. President, now the opening statement for the Defendant Dr. Rosenberg, follows. The defense counsel of the Defendant Dr. Rosenberg is at the moment engaged in an official journey for the purpose of interrogating witnesses. He yesterday telephoned me, saying that because of difficulties with trains, he would not be in a position to arrive here in time to appear in Court. He asked me to read the opening statement for the Defendant Dr. Rosenberg in his place and I ask for your permission.

We are now going to deal with the case of Dr. Rosenberg:

1) The prosecution charges the Defendant Dr. Hans-Wolfgang Rosenberg with:

1). Participation in a conspiracy to commit war crimes and crimes against humanity.

2). Participation in High Altitude Experiments in Dachau from

March until approximately August 1942, which were carried out, as the Prosecution states, to investigate the limits of human endurance and existence at extremely high altitudes.

II) 1). With reference to the charge of participating in a conspiracy against the Defendant Dr. Rosenberg, I herewith present the application to quash the procedure and/or to acquit the defendant, Dr. Rosenberg, in respect of this count of the charge, for the following reasons:

a) The Control Council Law No. 10 provides in Article II, Paragraph 1a, a possibility of punishment for participation in a conspiracy only in cases of crimes against peace. Therefore, this rule is to be regarded as *lex specialis* and cannot simply be extended to war crimes and crimes against humanity, on which the entire charge is being based.

b) The defendant, Dr. Romberg has never been a member of any of the organizations declared as criminal by the IIT, he was not even a member of the Luftwaffe.

c) From the evidence presented it does not in any way appear that the charge in question is based on facts.

2) With reference to the charge made as to participation in high altitude experiments, it is to be stated:

a) That it was not the purpose of the high altitude experiments in question to investigate and I quote: "The limits of human endurance and existence at extreme high altitudes", and that these experiments were conducted properly.

b) It is further to be stated that the experimental subjects used in these experiments are criminals, condemned to death by ordinary courts, who had volunteered and who were to be pardoned as a reward;

c) That Dr. Romberg was, at first, to consider Dr. Rascher, whom he got to know only at the beginning of the experiments, a serious scientist.

d) That at a latter date Romberg succeeded, after having taken note of Rascher's fatal experiments, with the help of his superior, the co-defendant, Dr. Ruff, in having the low-pressure chamber immediately removed from Dachau, and this against the will of Rascher and Himmler.

e) That Dr. Romberg never took any active part in the experiments of Dr. Rascher which exceeded the plan; and finally

f) That Dr. Romberg is a serious and conscientious scientist who had previously taken part in many high-altitude experiments as a subject.

III Dr. Romberg's statements, as well as those of several co-defendants are to serve as evidence. The Tribunal furthermore will be offered several affidavits."

And in this manner the defendant, Dr. Romberg intends to conduct his defense, and this brings me to the end of his case.

THE PRESIDENT: Counsel for defendant, Brack. (Telz)

DR. SAUTER: Mr. President, may I come back to yesterday's agreement of the defense counsel, which was that the cases of Romberg and Welz should be dealt with together.

THE PRESIDENT: Before proceeding with the statement on behalf of the defendant Welz, the Tribunal will recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

DR. SIEGFRIED WILLE: Mr. President, Your Honors, please permit me first of all to state several words outside of the official text.

In view of the opening statements of the gentlemen before me and the statements of the Prosecution against Professor Welz in the field of circumstantial evidence, because of the lack of proof, in order to counter this it is necessary for me to point out a number of apparently incorrect details in my presentation of evidence.

My presentation will be somewhat enlarged in this way because it justified the actions of the defendant Welz, which are only a very small part of the incidents that occurred. In order to simplify the matter, as far as I can review it at this time. I shall not make fundamental statements about the legal questions because they have been sufficiently treated in the presentation of my colleague.

"The prosecution accuses the defendant Weltz of the following criminal acts:

1. Participation in a conspiracy to commit war crimes and crimes against humanity.
2. Participation in the commission of such crimes.

I.

In detail, Weltz is accused by the prosecution of the following:

1. Participation in the High-Altitude Experiments by Dr. Rascher.

Subsequent to a lecture on high-altitude experiments on monkeys Weltz is alleged to have stated confidentially to Rascher, a member of the audience at that time, (Doc. No. 1602-PS) that those experiments ought to be made on human beings. By virtue of his relations with Himmler, Rascher is then alleged to have received permission from him, in the summer of 1941, to carry out — experiments with 2 to 3 criminals in Dachau.

The prosecutor connects this lecture, as well as the remark, with Weltz, for the reason that Weltz at that time was in charge of the permanent research office on the effects of high-altitude and therefore worked at the same institute as Rascher. (German Transcript p. 217). This is merely an assumption on the part of the prosecutor, I shall prove through witnesses and documents that it is without any foundation.

2. Other deductions of the prosecutor are based on this assumption. He deduces that Weltz was a starting point for Rascher's further preparations, although Weltz did not yet know Rascher at that time. Here the prosecutor mentions a remark in Rudolf Brandt's affidavit (Doc. No. 191), according to which Himmler had in June 1941 given Weltz, Rascher, and Kottenhof permission for low pressure experiments. In this one-sided statement it was further alleged that Weltz had postponed the experiments again and again for fear that they would give offense to the Medical Inspection. The truth is that Weltz had never asked for nor received this permission. The prosecution then alleges that Weltz used Ruff and Roenberg, of the Research Institute Adlershof, as a front. Before that, he is alleged to have vainly offered his assistants, Lutz and Wendt, the opportunity to collaborate with Rascher.

Through the necessary assignments Weltz is alleged to have made a participation in the experiments possible. Because of this attitude of Weltz, who secretly reserved for the Luftwaffe or for himself the credit for the scientific results of the experiments, the Munich representative of the SS Main Office is alleged to have stopped the Dachau experiments without Rascher until Himmler's decision (Mrs. Nini Rascher, Doc. No. 263). Weltz is alleged to have hedged in this way until the spring of 1942. Then Weltz apparently succeeded in overcoming Hippke's objections (German Transcript 220-222). The prosecutor states that Weltz also received information about deaths subsequently. The witnesses Lutz and Neff were to give testimony to prove this, but their statements did not really implicate the defendant. As regards the high-altitude experiments, the prosecutor draws the following conclusion from them.

It is true that Weltz did not actively participate in experiments, but he obtained expert assistants for Rascher, who was not conversant with high-altitude research (German Transcript p. 222).

3. Freezing Experiments:

Weltz is known as the real discoverer of the freezing problem and was aware at an early date of the scientific investigation of it through animal experiments. Hence his basic experiments on small animals, and also the experiments on shaved cats which were treated with irony by Rascher. Himmler's offer of an opportunity to experiment on human beings did not seem attractive to him, not to speak of his basic repudiation of experiments on human beings. A co-responsibility of Weltz for the freezing experiments, which only began in May 1942, that is, long after Rascher's dismissal from the assignment, cannot seriously be considered. Therefore, the prosecutor could present here only one single fact. In Document No. 343 a-PS, a letter from Milch to Wolff, Milch notes the conclusion of the altitude experiments in Dachau and suggests going over to freezing experiments which Weltz was ordered to carry out. For this purpose Rascher could be made available in the future. I shall prove through witnesses that this order was never given.

II.

The charge against Weltz is not complicity, but instigation and assistance. Weltz is alleged to have given Rascher the idea of making experiments on human beings and afterwards to have helped him in their execution. These accusations are in no small measure the results of the one-sided and noticeably prejudiced affidavits by Brandt, Ruff, and Romberg, Lutz also is not an unobjectionable witness, as he is politically too implicated by his SS membership. He therefore avails himself of every opportunity to make himself appear in a more favorable light.

In reputation of the statements of the prosecution I shall prove through documents and witnesses:

1. Weltz had nothing whatsoever to do with Rascher's assignment to his Institute. It was not Weltz but Stabsarzt Kottenhoff, of Luftgau VII, who gave the lecture on the monkey experiments. The suggestion to make experiments in the future, not on monkeys, but on two or three habitual criminals can therefore only have been made by Kottenhoff. I shall substantiate this through presentation of a reprint of Kottenhoff's article in the magazine "Luftfahrtsmedizin" (Aviation Medicine) and through witnesses.
2. Rascher's assignment to Weltz' Institute took place at his own insistence and with the support of Kottenhoff. Rascher wishes to establish himself in Weltz' good graces."

Outside of the text, may I here clear up a misunderstanding and a false translation into the English language? To habilitate, according to the German concept, that is to gain permission to be an active lecturer in the German Higher School. Now, I continue with the text:

"The experiments on human beings that Himmler permitted him to carry out were to assist him in this. Weltz, however, repudiated the proposed experimental research, the gradual ascent to high-altitudes and the freezing experiments. The reason for this will be seen in Weltz' basic negative attitude toward freezing experiments on human beings, as set forth by me under 1, 3.

I shall further prove that Weltz, on the occasion of Hippke's visit

in the summer of 1941 explicitly, stated to him that experiments on human beings were to be made only in the most pressing cases and only on criminal prisoners serving long terms. These prisoners would have to make themselves available voluntarily, and be rewarded by a termination or shortening of their sentence.

3. Thus Rascher's assignment to Weltz from the late summer of 1941 to the beginning of March 1942 meant absolutely nothing. Rascher went to Munich only seldom, without visiting the Institute. Therefore, in fulfillment of his official responsibility, Weltz ordered Rascher to report twice weekly. I shall prove that the second time he reported, Rascher produced a telegram from Himmler stating that he should keep the experiments secret from everyone, even Weltz. I shall further produce witnesses to prove that Weltz discharged Rascher at that very time and requested his immediate transfer back to the Luftgau, at the beginning of March 1942. On the basis of document No. 318 I shall prove that already in this letter Rascher appears after 16 March 1942 as member of the Ruff-Romberg-Rascher experimental group with an assignment for the Research Institute for Aviation, at the Dachau Branch. From this it will be so that the inauguration of high-altitude experiments in Dachau, coincides in point of time with Rascher's separation from Weltz. Thus I shall make clear that Weltz did not call Rascher to him and instigate his experiments, but that on the contrary, he kept Rascher at a distance and discharged him from his assignment when Rascher attempted to withdraw from Weltz' supervision.

4. In my submission of evidence I shall further take issue with the assumption that Weltz wished to provide Rascher with ---"

And I must bring out a mistake in the text, it must be Weltz instead of Werz.

"experienced helpers in the person of his assistants, Lutz and von Weltz while making sure to keep himself at a discreet distance. I shall prove through witnesses that it was customary in Weltz' institute to determine and draw up in writing the working program through joint discussions of the collaborators. If, therefore, Weltz had ever intended that his institute

should participate in Rascher's experiments in Dachau, or that his collaborators should seriously concern themselves with it, there would have to exist a written elaboration of Rascher's program. I shall prove through witnesses that Wertz never suggested such a collaboration of his assistants.

5. I shall further prove through documents, and also through logical deductions that it was not Wertz' intention to induce Ruff and Komberg to enter into a plot with Rascher. His presence in Adlershof was fortuitous. It was only through this visit that Wertz found out about the work program in progress there involving high-altitude experiments. I shall prove from this that there was no question here of a prearranged meeting. I shall further prove that there were discussions that took place among physicians of equal rank in good faith. The experiments were to be carried out on the doctors themselves or on habitual criminals, who were to be rewarded with a mitigation of their sentences. I shall further prove by witnesses that up until then Rascher had demanded this and that this work program of Dr. Ruoff's was also approved by Hippke. It will be seen from this that this discussion offers no grounds for the contention that Wertz deliberately associated himself with Rascher. The shipment of the low-pressure chamber to Dachau and the advance inspection of Dachau Concentration Camp by Wertz will, in view of this, no longer be incriminating,

6. I shall further prove by documents and witnesses that the high-altitude experiments in Dachau from March 1942 on lay outside Wertz' responsibility.

- a) Furst, because at the beginning of March, Rascher had separated from his assignment with Wertz;
- b) Also because the experiments were carried out under the exclusive responsibility of Ruff in his capacity as leader of the medical department of the Research Institute at Adlershof. Among other things, it will be seen that the experiments were carried out under the heading "Adlershof Research Institute, Dachau Branch." This latter I shall prove by documents."

There is a little change in the text there:

- "c) I shall further demonstrate by witnesses that Wertz learned nothing of the results. He received neither current reports nor the usual scientific

analysis. It will be seen from this that his Institute was regarded as not taking part.

7. As incrimination through the freezing experiments the prosecutor merely pointed out that Woltz was intended as a participant in them. In answer to this I shall prove, from documents presented by the prosecution itself, that this intention was not put into execution. Rather, Professor Holzlochner was commissioned to carry them out in place of Woltz.

8. I shall clarify Woltz' character and personality through the testimony of his colleagues. Through their testimony, I shall prove that his attitude toward life, as manifested in his many years of activity, does not fit him for the role that the prosecutor ascribed to him. Woltz is not only a scientifically distinguished physician, but also a humane one, upright, without timidity, and without despotism. He is not ambitious in such a way as ever to derive benefit from the work of his assistants.

9. I shall prove this through affidavits by competent persons. His sense for the healing and constructive activity of the physician cannot be reconciled with experiments on human beings such as Rascher was carrying out. In fact, he opposed these experiments for so long that Himmler threatened to put him in a concentration camp as a traitor to his country. The chief prosecutor defines the goal of German medical science as killing and extermination; in refutation of that I shall prove that Woltz' life work was devoted exclusively to the preserving and saving of human lives.

10. Finally I shall bring forth my objections to the charge of conspiracy. In my examination of the defendant and occasionally of the other defendants, I shall prove, that Woltz had almost no connections with the leading doctors of the Wehrmacht and the SS who are gathered here. This circumstance resulted quite naturally from his position as leader of a purely research institute that had nothing to do with the general medical administration. His only task was the elucidation of scientific problems. Accordingly, it naturally follows that Woltz' participation was only of a scientific character. I know of only one such act of participation; namely, the congress on "Shipwreck and Winter Suffering" (See note and Winternot) on 26 and 27 October

1942 at Nurnberg.

Participation in a conspiracy with such far-reaching goals, however, would also, require proof that the participants were criminal characters. Unpremeditated crimes can be alien to the person's essential character. A crime of such long duration as a conspiracy is only conceivable if the perpetrator's character is criminal and if his depravity is manifested also in his entire behavior. The evidence that I have promised to submit regarding Weltz' personality and character will make clear the impossibility of such an assumption.

Outside of the text may I make the following statement. The defense counsel of the defendants Ruff and Rosenberg have suggested immediate discontinuance of the trial and I want to join this request at this time.

10. Finally, I feel it to be my duty to refer in quite general terms to the following objection:

It has now been established, after the submission of the prosecution's documents, that Rascher was a criminal. It would have been a crime to support this Dr. Rascher, whom we now see in all his depravity. In the evaluation, however, of the defendant Jeltz's possible guilt and responsibility, we are not concerned with this Dr. Rascher. I have reached the conclusion of my statement.

DR. GROESCHMUTH: (Defense counsel for Viktor Brack) Mr. President, your Honors. The prosecution accuses the defendant Brack of: 1) taking part in a common conspiracy for the commission of war crimes and crimes against humanity; 2) commission of war crimes; and 3) commission of crimes against humanity by participating in the euthanasia and sterilization measures as well as 4) remaining a member of the SS, and thus of a criminal organization, after 1 September 1939, although he knew that the SS was used for the commission of war crimes and crimes against humanity.

In refutation of these accusations counsel for the defendant Brack will present testimony of witnesses, documents, films, and eye witnesses and also by showing the film, "Ich Klage An", "I accuse", to prove the following and show his previous life and also his care of inmates in insane asylums. This is an additional part of my text.

1) Brack worked in the Fuehrer's Chancellery as specialist for Unit II, where it was his function to handle all complaints and appeals addressed directly to the Fuehrer by persons from all walks of life, and to submit them to Reichsleiter Bouhler for his decision.

In addition to these duties Brack was instructed by Reichsleiter Bouhler in 1939 to assist him in the technical preparation of such measures as were required in the execution of the task that Hitler had assigned to Bouhler; that is shortening the worthless lives of incurably insane persons, after most critical diagnosis, by specifically designated doctors, and in the technical preparation of the execution of these measures. Brack felt no doubts, after the development of German law since 1933, as to the constitutional legality of Adolf Hitler's

directives.

Brack carried out the instructions given him and his other duties in his capacity as an administrative official subordinate to Bouhler and subject to the individual instructions of Reichsleiter Bouhler, with no independent power to make decisions.

Brack had no contact whatsoever with any of the defendants who were planning or preparing a war crime or a crime against humanity. Only with the defendant Karl Brandt did he have a few more or less incidental conferences, the purpose of which, however, was not the commission of war crimes or crimes against humanity.

2) The task with which Reichsleiter Bouhler entrusted Brack involved only incurably insane persons. Brack had nothing to do with measures designed to shorten the lives of deformed children (which was within the competence of the so-called "Reich Commission for the Survey of Serious or Inherited Afflictions"), nor with measures affecting incurable invalids in general.

The task assigned to Brack involved only German insane persons, excluding persons wounded in the first World War and industrial casualties. It did not include foreign nationals, particularly those of nations at war with Germany, but on the other hand did include Party members and Jews living in Germany.

Brack gave close study to writings on the problem of shortening the worthless lives of incurably insane persons, which has been disputed for centuries by physicians, jurists, philosophers, scientists, and ordinary citizens, and, for ethical reasons and on the basis of a carefully formed conviction deriving from his own experiences, education, spiritual orientation, and personal study, answered in the affirmative the question, which comes up in connection with the above-mentioned problem, as to the justification of euthanasia in such cases.

Brack did not participate in the other extermination measures with which the Prosecution charges him, which were directed against Germans and non-Germans through a misuse of the organizational apparatus that Bouhler had created.

3.) Never in his life was Brack's attitude anti-Semitic. On the contrary, in many cases he interceded in the interests of Jews even at the danger of personal detriment. Consequently, Brack became an enemy of Heydrich and Borman. Just before the end of the war at the instigation of Bormann he was even sentenced to death by a military court martial. And I continue with my original text: Consequently Brack was dismayed by his progressively clearer recognition of the radical intentions and extermination plans embraced by Hitler and his advisors.

Brack wished to frustrate these plans at all costs. For this purpose, abusing the confidence he enjoyed, he attempted to induce the men in the control to adopt means and procedure which apparently promised success but which actually, according to the state of research at that time, had to be regarded as useless, and at any rate made a successful application of those plans impossible for a considerable period of time. This is the origin of Brack's correspondence with and sterilization proposals to influential persons in the government in 1941 and 1942. Brack's activity in these years will, in the light of the evidence that the defense will produce, take on an essentially different psychological aspect from that which the Prosecution has presented.

Brack did not furnish personnel for the extermination of Jews.

4.) In the spring of 1942 Brack volunteered for service at the front with the Waffen SS because, after the failure of his efforts and realizing that the radical tendency was now irresistible, he did not wish to be associated with or even to come into contact with an activity that seemed to have criminal tendencies.

He transferred to the troops in ignorance of facts going to prove that the SS was used for criminal activities.

That is the end of my statements.

DR. MARX: Mr. President, your Honors, I am now beginning the opening statement for the Defendant, Dr. Becker-Freyseng.

The Prosecution charges the former Stabsarzt of the Luftwaffe Reserve, Dr. Hermann Becker-Freyseng, first, to have participated in a conspiracy and a joint plan to commit crimes against humanity and war crimes. Those crimes are alleged to have been committed under camouflage as so-called scientific, medical experiments.

The indictment thereby was based on the assumption that in the execution of individual experiments or series of experiments several of the here present defendants or the agencies they represented at that time had taken part or were interested in them or should have had knowledge of them.

However, the Prosecution did not leave any doubt that in its opinion the carrying out of so-called medical experiments was only a pretext to do harm to enemies of the Nazi State, to torture them, even to exterminate them. The Chief Prosecutor, General Taylor, devoted a major portion of his

address before the High Tribunal in demonstrating that the basis for such a conspiracy were the doctrines of the National Socialist German Workers' Party (NSDAP) particularly in regard to the race question, and that also the personal basis of the cruel and abominable crimes is to be found in those characters who freely fell for the results of those slogans about Race and State, without inner ties with and religious consideration, true medical calling, genuine science, and the eternal human values. That is the picture of the conspirator which the Prosecution developed before our eyes.

2) In contrast to that, Counsel for the Defendant, Dr. Becker-Freysong, will attempt to prove that the latter, as a result of his education and his concept of the medical profession, as well as his general philosophy, for the factual results of which we will offer evidence, is really unable to show such attitude.

a.) Coming from a Christian family, Dr. Becker-Freysong preserved his religious attitude at later times also as a student, as a husband and family father, he did not abandon his Christian position, even at a time when many Germans broke with church and religion, merely as a matter of expediency, in accordance with the Party trend, and left the church.

b.) Neither did he belong as a student to the Nazi Students Association nor did he belong, as a physician and young academic teacher, to the Nazi Physicians Association or the Nazi Academic Teachers League; only in serious scientific work and service to the ill did he see the fulfillment of his free chosen profession. His superiors and teachers were no so-called Nazi Professors but men who today again hold honored positions.

c.) This picture of the Defendant will be completed when I submit evidence to the High Tribunal that Dr. Becker-Freysong -- as far as it was in his power -- aided and supported racially and politically persecuted people, thereby certainly not following the principles of the Party.

d.) Already from the beginning of his own scientific career the experiment carried out on himself is of exceptional importance. Already as a young interne he tested new drugs on his own body and studied in experiments on his own person, the results up to the limit of his physical endurance.

At the Research Institute for Aviation Medicine in Berlin Dr. Becker-Freyseng carried out on himself even the most dangerous experiments that ever were carried out there and thereby contracted a serious case of pneumonia.

In more than one hundred experiments with lack of oxygen he served as experimental subject for his colleagues, thereby losing his consciousness and exposed himself to other dangers; and when, after the war, he with other German aviation physicians was asked to cooperate at the Aero-Medical Center of the American Air Force in Heidelberg, he carried out almost one hundred dangerous low pressure chamber experiments in less than a year's time, which caused an illness of several months duration to one of the participating colleagues. All these experiments on himself did not bring any material gain to Dr. Becker-Freyseng. His scientific works are regarded as clean and absolutely reliable by today's critical observers, too. He cannot be accused of an unhealthy ambition, an unfactual fanaticism or reckless egotism, and nothing of the kind could be proven against him.

Never did he carry out any dangerous experiments in his own scientific field any other way than as an experiment on himself or on similar minded co-workers.

e.) The outbreak of the war interrupted the medical-scientific activities of Dr. Becker-Freyseng. In 1940 he was drafted as Unterarzt of the Luftwaffe Reserve and transferred in 1941 to the Medical Inspectorate of the Luftwaffe.

The indictment characterizes Dr. Becker-Freyseng as "Chief of the Division for Aviation Medicine" with the Chief of the Medical Service of the Luftwaffe. Actually no Division for Aviation Medicine at the Medical Inspectorate has ever existed; thus, this is a contention by the Prosecution that cannot be proved at all.

Within the Division 2 (the Medical Division) there existed only a branch (a referat) for Aviation Medicine. Dr. Becker-Freyseng was working there as an assistant consultant up to the middle of 1944

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without authority to sign any papers and without any independent responsibility. Only from May 1944 until the end of the war Dr. Becker-Freyseng was himself the head of the branch (Referant).

May it please the Tribunal: The presentation of evidence will prove that this clarification is more than a merely formal correction. Sphere of activity and mainly responsibility of a division chief were in principle different from those of a chief or even assistant subordinate to him. Amongst all the defendants, who had any function in the civilian or military sector of the German health service during the war at all, Dr. BECKER-FREYSENG is the only one whose activities were never autonomous, and who never was authorized to make independent decisions.

This, High Tribunal, is the picture of the character of the defendant Dr. BECKER-FREYSENG, which the Defense will prove in detail, in order to demonstrate, that in no way does it conform with the description of a criminal conspirator the prosecution has drawn.

Furthermore the Prosecution's assumption that Dr. BECKER-FREYSENG participated at the "Consulting Conference" of the year 1943 is incorrect. The Defense is going to prove that he actually participated only at the Conference of 1944.

Most of the defendants he saw for the first time here in the Palace of Justice, others he knew by name on account of their high position. With the members of the Luftwaffe he had naturally official contacts.

II.

In particular, the indictment charges Dr. BECKER-FREYSENG of participation or special responsibility for high altitude experiments, freezing experiments, sea water experiments and the experiments with sulfonamide, epidemic jaundice, typhus and other infectious diseases.

1) The Defense is going to prove, that Dr. BECKER-FREYSENG had nothing to do whatsoever with the high altitude experiments and heard about these experiments only after their conclusion, and then only unofficially and by chance.

Furthermore, we are going to prove, that the low pressure chamber

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used in Rascher's experiments was not furnished to Dr. RASCHER by
the Aviation Medicine

Branch of the medical Inspectorate of the Luftwaffe, that Dr. BECKER-FREYSENG actually saw this chamber for the first time about July 1942, when it already had returned from Dachau, and that he took it over from German Aviation Experimental Station (DVL), as brand new.

Mr. President, I will omit the following paragraph; I request that this paragraph be stricken from the record. I will now continue with the next paragraph.

"To illustrate the attitude of the defendant Dr. BECKER-FREYSENG to a request of Dr. RASCHER to be furnished with a chamber again, the Defense points out the following, and will submit evidence for it;

During the winter 1942-43, an inquiry from one of the higher SS-offices was received by the Medical Inspectorate, about letting them have a motorized low pressure chamber with a two phase pumping unit, Dr. BECKER-FREYSENG had an order to report the position of his branch to his superior.

He commended a negative reply, with the argument, that none of the available chambers could be spared, and that there was no reason for the Medical Inspectorate to have RASCHER conduct high altitude experiments. It is obvious, that this refusal might have had serious consequences for Dr. BECKER-FREYSENG. He also saw to it the only German specialized firm would not manufacture any low pressure chambers for the SS and RASCHER.

2. Freezing experiments.

With the planning and conduct of the freezing experiments, Dr. BECKER-FREYSENG had also never to do. Of the fact, that freezing experiments had been conducted on human beings, he personally heard only through the lecture by Prof. HOLZLOEHNER during the Nuernberg Conference of Luftwaffe Physicians in October 1942.

Concerning this subject, the Defense is going to prove, that no one could learn from Prof. HOLZLOEHNER's lecture, from what type of persons the experimental subjects were chosen. The general opinion of the participating physicians was, that the experiments were conducted on criminals sentenced to death.

Dr. RASCHER, who was conducting the experiments, had specially requested permission from HIMMLER to handle the matter absolutely secret.

Dr. BECKER-FREYSENG after the Nuernberg Conference never saw RASCHER again, and never had any other contacts with him.

The Luftwaffe too, shifted away completely from RASCHER, and thereby got into disfavor with his sponsor, the Reichsfuehrer-SS, HIMMLER.

From documents offered by the Prosecution it becomes evident that

- 1.) RASCHER was from the very beginning in very close contact with the SS and particularly with HIMMLER.
- 2.) That RASCHER continued freezing experiments without any participation of the Luftwaffe for years, and that under really perverted conditions.

Therefore, Dr. BECKER-FREYSENG cannot be considered responsible for a participation on the freezing experiments.

3.) Typhus experiments, Hepatitis and Epidemic Jaundice.

In all these three cases we are concerned with purely hygienic or bacteriological questions, even in the difficult specialized field of virus research. With this field, Dr. BECKER-FREYSENG in his official position at the Medical Inspectorate of the Luftwaffe was not at all concerned, he never had to voice an opinion on any of these questions, he never participated on a conference concerning them, or even heard of them. These questions did not even belong to the field of aviation medicine which was the exclusive field of activity of this defendant. Scientifically Dr. BECKER-FREYSENG never worked on these problems either, and is entirely unfamiliar with this specialized medical field.

Dr. BECKER-FREYSENG was in contact with the affair HAAGEN only insofar as his branch formally worked in single cases on research orders, in order to uniformly control the permanent regulations about allocation of funds, priority rate assignment of personnel, etc. Furthermore, all of these research orders had

the same file note, (no. 55) and, therefore, merely for filing purposes
were handled by his branch.

Thus it was nothing but an administrative and file matter! The real, that is the factual contents of the order were handled by the respective consultant for that specialized field.

That is how Prof. Eugen HAAGEN had received research orders about several bacteriological questions, and that already before Dr. BECKER-FREYSENG came to the branch in the fall of 1941.

In the case of the defendant Prof. Dr. SCHROEDER I dealt already with the dual position of Prof. HAAGEN the different types of research orders he worked on, and therefore how the ordering agencies opposed each other.

The Defense is going to prove, that Dr. BECKER-FREYSENG even in the summer of 1944 never considered the experiments HAAGENS as anything but of an animal experimental type. This is to be deducted from an order submitted to Dr. SCHALLA, chief of the breeding institution for such experimental animals.

4.) Dr. BECKER-FREYSENG heard first about the Sulfonamid Experiments in November 1946, when he was served the indictment.

5.) The experiments about making sea water potable. As far as these experiments are concerned, the motives, which had been guiding for Dr. BECKER-FREYSENG as well as his proposal of carrying out experiments for this purpose on human beings, were already elucidated in my plea for Prof. Dr. SCHROEDER.

The Defense will offer proof , that Dr. BECKER-FREYSENG advocated the conduct of these experiments not for vicious planning or with the intent to torture, and to destroy. Only by the attitude of the follower of the other method "Berka" and due to the particular circumstances caused by the war then forced to suggest experiments to be carried out on inmates, after the originally intended experimentation on soldiers of the Luftwaffe in a Luftwaffe or parachutist hospital and in the Military Medical Academy had proved to be impossible as a result of the war situation in the summer of the invasion.

The Defense intends to be in a position to prove that the planning of experiments, for which from the start the volunteering of experimental subjects had been the first condition, had been so prepared and that the carrying out had been laid down in such detail that according to all medical experience and medical estimates every precaution had been taken to prevent any disturbance of health, but certainly fatal results.

In sharp contrast to experiments the outcome of which could no longer be directed by their irresponsible initiators, the nature, the preparations and the carrying out of the so-called seawater experiments guaranteed that at any time when reaching the limit of endurance the single experiments could be broken off. And only in these seawater experiments did the defendant Dr. BECKER-FREYSENG participate directly.

The volunteering of experimental subjects was a really necessary requisite for the experiments, as it would have been impossible to obtain an absolutely unobjectionable observation result in forcing persons to take part in. Because the physician and scientist does necessarily depend upon the cooperation of the experimental subjects in evaluating subjective statements, like thirst, hunger and other complaints.

Dr. BECKER-FREYSENG, therefore, is of the opinion to have done all that was at all possible according to the well-known standard of medical science, especially as the supervision of the experiments had been put into the hands of an experienced physician and of a blameless character.

This picture of Dr. BECKER-FREYSENG shows him as a man whose concern was serious scientific research and objective work, who made very high demands upon himself, not sparing his own person, a man who does draw and who may draw a sharp line between himself and such "would be - scientists", who have made tests without considering health and life of their fellow-men, finally as a physician who always endeavored to live up to the high ethical standards set by his vocation.

According to the opinion of the Defense after the hearing of the evidence

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the picture of the defendant will be an entirely different one
from the one which was painted by the Prosecution.

Mr. President, in addition and outside of this written statement I would like to state several words. I am of the opinion that I am entitled to also state for Dr. Becker-Freyseng and also Professor Schroeder, whom I am also defending, to make the request in their behalf that the trial be discontinued in so far as this includes their participation in a criminal plan or a conspiracy and even perhaps to a higher degree than is the case with one or the other of the defendants. However, I shall refrain from making such a request because I am of the opinion that the verdict will have to be uniform about all the points with which the defendant is being charged. Therefore, I do not consider it appropriate to decide about part of the Indictment from the very beginning.

THE PRESIDENT: The Tribunal will now recess until one-thirty o'clock.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

MR. BELCKMANN: Your Honors, Dr. Belckmann for the defendant Dr. Konrad Schaefer.

The SCHAEFER Case

appears to be of a special kind, even to the superficial observer of this trial.

In these proceedings, which have lasted for weeks, the name of SCHAEFER has been mentioned only a few times by the Prosecution. He is alleged by the Prosecution to have participated in only one experiment conducted on concentration camp inmates, in which experiment a drug was tested which was intended to render sea water potable.

The Prosecution alleges that, in spite of this very limited activity, Schaefer was participant in the conspiracy which comprises all these defendants.

To prove its thesis of the conspiracy of all the defendants, the Prosecution has presented two points in detail.

1. The pervasion and corruption of German medical science, primarily the young medical men, by National Socialist ideas, culminating in a disregard for human life which found its expression in the experiments on concentration camp inmates.

2. The close cooperation of all defendants in various spheres of medicine, primarily in the Army, in the Luftwaffe, and in the SS, which put each defendant in a position to recognize the criminal activity of the others and to contribute his share knowingly.

In this connection I shall prove that, especially in Schaefer's case, these prerequisites do not apply:

Schaefer has always been an outspoken opponent of National Socialism and of militarism. It was he who already in 1933 and in the subsequent years as a student and as a young physician opposed the measures which the Prosecutor described so fully on 9 December 1946 (page 100, 101 of the German transcript, and which were intended to make of these young

men willing instruments of the National Socialist regime by training them within the organizations of the Party, even at the expense of their scientific achievements.

In spite of extremely strong pressure - which the Prosecution has described very vividly - he refused to join the Party or any other organization, thereby endangering his admission to the examinations. He finally had to give up his position as assistant at a university clinic, although his scientific achievements would have entitled him to a position as lecturer.

Later, too - from 1937 until the outbreak of the war, still more during the war, and also after having been drafted into the Luftwaffe in 1941 - he continued to criticize the existing system and its excesses especially in the field of medicine, and last but not least the experiments on human beings which were conducted in the concentration camps.

How is it to be explained, then, that SCHAEFER held a position in the public health service of the Third Reich (German transcript page 57)

But how can the Prosecution contend that the share of each of the 20 physicians - including the defendant SCHAEFER - in the conspiracy and in its execution corresponds most closely to his professional interests and his position within the hierarchy of the Third Reich? (cf. German transcript page 114.

I shall prove that these contentions of the Prosecution concerning the position of the defendants within the hierarchy of the Third Reich and their close cooperation with each other do not apply in the case of SCHAEFER.

From 1937 until 1945 SCHAEFER held a position as medical man and chemist and as deputy section chief in private industry, since official positions were not open to him on account of his anti-Nazi convictions. In 1941 he was drafted as a private and after 6 months became Unterarzt in the Luftwaffe, since he was a medical man. An Unterarzt in the German Wehrmacht does not have the rank of an officer. Through an accidental meeting with his former fellow-student BECKER-FREYSENG, he was given the opportunity of

entering the Research Institute for Aviation Medicine. He seized this opportunity immediately, because in this way he was able to continue his activities in private industry, naturally in civilian clothes. He rarely entered the Institute, and he seldom wore a uniform. He knew only a few of the other medical men in aviation. He talked only once to his supreme superior, HIPPE, and he talked only twice to HIPPE's successor, SCHNOEDER. Such an unimportant person was SCHAEFER! One cannot speak of a position within the hierarchy of the administration and of medicine of the Third Reich.

During the war he held a position like many thousands of other Germans, who were glad to be able to escape the deadly dangers of the war at the front, who had no inner connections with this war and with this system, who even were its radical opponents.

He was given the order to investigate problems arising from distress at sea, particularly the problem of thirst.

He obeyed this order with great satisfaction, because he knew that the solution of this problem would put an end to the tortures of Tantalus suffered by shipwrecked persons all over the world. He set to work with scientific thoroughness, which I shall prove in detail. A study of the entire literature, which took months, enabled him to hold a lecture on thirst and the measures to be taken against it during distress at sea, by order of the Chief of the Medical Inspectorate, at the meeting in Nuernberg in 1942. The lecture contained pure theory and was not a report on experiments on human beings. The Prosecution asserted - the contrary on 12 December 1946, it is true (sheet 334 of the German transcript, but the complete Document 401, Prosecution, Exhibit 93, proves that this assertion is false.

The further occupation with this problem brought SCHAEFER to experiments, which were carried out by the IG-Farben. In a scientific cooperation with this firm, a drug was finally found, by which sea water could be made drinkable without any prejudice to health. This result was obtained by many chemical, and pharmacological examinations of the bactericide effects and experiments. No experiments on human beings with this

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drug were necessary, for SCHAEFER had recognized on the basis of all the other scientific methods of investigation that this drug was absolutely innocuous.

The drug was called "Wofatit SW" "IG Drug " or "Schaefer Drug."

It is fundamentally and also in its way of presentation with only very slight differences the same drug which was invented by the American Dr. Ivy and used by the US Armed Forces.

The Schaefer drug was completely ready at the end of 1943, and Schaefer's supreme superior, the Inspector of the Medical Service of the Luftwaffe, intended to introduce it in the German Luftwaffe.

The Technical Office, another branch of the German Luftwaffe, however, opposed its introduction, offering as a reason that there was not enough silver available, which was needed for the production of the drug.

The important men in the Technical Office, Oberstingenieur Christensen and Stabsingenieur Shickler, demanded the introduction of a drug which has been invented by Stabsingenieur of the Air Force Berka. It consisted of glucose, which removed or diminished the salt taste of the sea water without changing the actual salt content.

I shall prove with special emphasis that Schaefer opposed this "Berka drug" as being a fake, ever since the origin of this plan.

He wrote a crushing report on the results of experiments which Oberstarzt von Sirany had conducted with the Berka drug on volunteers, patients in a Luftwaffe hospital, by order of the Technical Office. Schaefer had been ordered by his superiors from the Medical Inspectorate to make this check.

The result of Schaefer's attitude in this respect was that he was suspected of sabotage by the men of the Technical Office and by the officers of the Luftwaffe.

Schaefer knew very well what this accusation meant in the Third Reich during the fifth year of war. He knew of other instances in which medical men had been persecuted by the RSHA, that is, by the Gestapo, only on account of their diverging scientific opinions on subjects of vital importance for the war.

But nevertheless he explains his opinion of the senselessness of the Berka method also at the conferences of 19 and 20 May, during which it is proposed that this method be tested on concentration camp inmates. As a final warning he states that with the Berka method death sets in on the 12th day at

latest. This is proved by the Prosecution Document NO 177, Exhibit 133.

This was all he could do under the circumstances, not being an officer, but the least important person among the brilliant uniforms of the 13 high-ranking officers.

At these conferences Schaefer makes no "resolutions." This is impossible in the Army. The top-ranking chiefs of offices present "order" and "command." But the defendant Schaefer is not even ordered to conduct experiments on concentration camp inmates. He is not even assigned to the commission which had been appointed to determine the conditions for the experiments, because he is known to be an opponent of the entire enterprise.

Another chance for preventing these - in Schaefer's opinion completely pointless - experiments on human beings with the Berka drug, whether in the concentration camp or in the Luftwaffe hospital, passes by. On 25 May 1944 the world-famed internist Professor Eppinger from Vienna declares that he does not consider entirely wrong Berka's idea that his drug would "sluice" the sea water through the human body without any injury, which Schaefer had hitherto considered absolutely absurd. Three more professors, outstanding medical men, shared the opinion of professor Eppinger.

Thus Schaefer lost one more medical pretext to declare himself still more openly against the performance of these experiments.

No law in the world can demand of Schaefer more than he did, if one appreciates rightly and with understanding the general circumstances in Hitler Germany and Schaefer's special situation on account of his official rank. Now I already put the question why none of the participants in the conference of 19 and 20 May 1944, who in contrast to Schaefer kept silence, are present here in the defendants' dock, with the exception of Becker-Freyseng, and why just the inventor of a method which solves a very ancient problem of humanity is accused.

In none of the conferences mentioned in the documents of the Prosecution, in which Schaefer took part, was it proposed or ordered that the "Schaefer drug" be tested on concentration camp inmates. Only for such an act could Schaefer have been held responsible. But he would never have shunned this medical responsibility, in view of the good quality of his drug, although

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he never have approved the use of concentration camp inmates.

The experiments with the Berka drug, which he is not responsible for ordering, were carried out without his cooperation.

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He therefore cannot be charged for having listened to the lecture of Professor Beiglbock, which fully revealed the uselessness of the Berka method.

Your Honors, I hereby ask you to consider the Prosecution documents and the speech of the Prosecutor, before listening to my case, and to take into consideration my statements concerning the Prosecution documents.

This examination alone will put you in a position to realize that the Defendant Schaefer is not guilty. In accordance with the practice of American and British courts in penal cases, I request as a measure of precaution that the trial of the defendant Schaefer be discontinued, without the submission of any further evidence.

DR. GAWLIK (Counsel for Defendant Hoven): The defendant Hoven has been accused on all four counts of the indictment.

Regarding Count 1 of the Indictment, common plan or conspiracy: In the first place, the fact of a conspiracy requires a common plan or agreement between at least two persons. The prosecution should, therefore, have stated: 1, when; 2, where; 3, between what persons this common plan or this common agreement was reached; and 4, what the substance was of this common plan or agreement.

The prosecution should have made a particular point of stating that this plan or agreement aimed at the committing of those war crimes and crimes against humanity, which are the subject of these proceedings. Furthermore, the prosecution should have proved that the defendant Hoven took part in such an agreement.

Now that the prosecution has concluded its presentation the following must be stated: the prosecution has no reason whatever for assuming and has produced no proof whatever that a plan of this kind ever existed or that the defendant Hoven took part in it.

I therefore ask that the defendant Hoven be declared not guilty under Count I of the indictment.

The opinion expressed here this morning gives me occasion to add a few words at this point. I am of the opinion that the Tribunal does not

need any instruction on how these proceedings should be conducted most efficiently. I shall therefore merely comment on the question of whether such an application is legally admissible or not.

According to German penal law the Court can at any time refrain from hearing defense witnesses if it is of the opinion that the evidence presented by the Prosecution is not adequate.

As far as I know, and I make these statements with a certain reservation because I have foreign literature available only to a limited extent, this principle applies under the law of all states. This principle also arises from the laws of logic, for what purpose would there be in presenting defense witnesses on the count of conspiracy under the present difficulties of bringing them to Nuremberg and of taking up the time of the Tribunal by their examination if the Court is already of the opinion that what the Prosecution has presented is insufficient to prove the participation of the defendant Hoven in a conspiracy?

I shall now continue. If this application is refused, I shall prove: a, that the defendant Hoven did not take part in such plan; b, that he did not even know his co-defendants, with the exception of Mrugowsky, until the beginning of the present trial; and, c, that he had only met the defendant Mrugowsky once, unofficially, and that at this meeting there was no discussion of an agreement for the commitment of war crimes and crimes against humanity.

Regarding Counts 2 and 3 of the Indictment (war crimes and crimes against humanity):

Under these Counts the defendant Hoven is accused of having carried out on inmates of the concentration camp Buchenwald: a, typhus experiments, and b, the euthanasia program.

As an introduction I should like to point out the following in order to clarify my presentation of evidence:

The fact that the prosecution has proved that a crime has been committed does not suffice. Law No. 10 is only applicable if these crimes were committed on citizens of the United Nations. I gather from the evidence so far submitted by the Prosecution, and especially from the witnesses questioned by the prosecution, that they also are of this view.

I shall now deal with the individual war crimes and crimes against humanity with which the defendant Hoven is charged, and come first to the question whether there is a basis for the assumption that the defendant Hoven participated in the typhus experiments - a punishable act according to Law No. 10.

It cannot be doubted that between January 1942 and the end of 1944 typhus experiments were carried out on inmates in the concentration camp Buchenwald.

The defendant Hoven was arrested in September 1943 and was, until March 1945, a prisoner in the concentration camp Buchenwald. This is clear from the evidence presented by the prosecution. It is therefore out of decisive importance whether and to what extent the defendant Hoven actually took part in the typhus experiments January 1942 and August 1943. The prosecution has stated correctly that it was not the defendant Hoven who was supervisor of the department for typhus and virus research at the Hygiene Institute of the Waffen SS which was established at the Buchenwald Concentration Camp, but that this was the late Dr. Ding-Schuler.

The activity of which the defendant is accused allegedly consists in

- a) having been Dr. Ding's deputy.
- b) having selected prisoners who were used as human experimental subjects in the typhus experiments.

Re point a) As has been correctly submitted by the Prosecution on the strength of Dr. Ding's diary - Doc. NO.265, Document

Book 12, page 36 to 56 of the German, pages 38 to 53 of the English text - the activity of the defendant Hoven as Dr. Ding's deputy has to be broken down into:

- 1) His work as deputy in the experimental station Block 46;
- 2) His work as Deputy in Block 50.

The evidence of the prosecution has shown beyond any doubt that the experiments were carried out only in Block 46. In Block 50 only the typhus vaccine for the German soldiers at the front was manufactured. This is shown by the testimony of the witness Dr. Kogon, page 1192 of the German transcript.

Only the performance of the typhus experiments in Block 46, however, can be considered a criminal activity in accordance with Law No. 10. The manufacture of typhus vaccine in Block 50 is beyond any doubt neither a war crime nor a crime against humanity.

Only in Block 50, the section where the vaccine was manufactured, was the defendant Hoven Dr. Ding's permanent deputy. This is shown indubitably by the above mentioned Document NO-265, Document Book 12, pages 38 to 53 of the English and pages 36 to 56 of the German text, particularly by page 41 of the English and the same page of the German text. There is the following entry on 9 January 1943:

"By order of the surgeon general of the Waffen SS, SS Gruppenfuehrer and Major General of the Waffen SS, Dr. Gonzen, the hitherto existing typhus research station at the concentration camp Buchenwald becomes the "Department for Typhus and Virus Research". The head of the department will be SS Sturmbannfuehrer Dr. Ding.

During his absence the station medical officer of the Waffen SS Weiner, SS Hauptsturmführer Hoven, will supervise the production of vaccines." I draw the attention of the Tribunal especially to the expression "production of vaccines."

The defendant Hoven was Dr. Ding's deputy in the experimental station only temporarily, during an illness of Dr. Ding's. This is to be seen from the entries on p. 37 and 38 of the German Document Book 12, page 38 and 39 of the English Document Book 12.

According to these entries, Dr. Ding vaccinated 135 prisoners in the period from 6 January to 1 February 1942, and afterwards on 3 March 1942, infected these vaccinated prisoners and 10 control persons with culture virus. On 17 March 1942 Dr. Ding, who had infected himself, fell ill with typhus. During this illness the defendant Hoven acted as his deputy, according to the entry in the diary on 17 March 1942. The next infection took place on 15 October 1942 and was made by Dr. Ding. From the entries in the diary one can see without doubt that in the period from March to October 1942, especially during the time when the defendant Hoven acted as deputy for Dr. Ding, no infections were made.

These entries are corroborated by the testimony of the witnesses examined by the prosecution, who stated that the defendant Hoven did not perform any experiments. Witness Dr. Kogon declared that the defendant Hoven could not begin any experimental series on his own initiative, but that only Dr. Ding, as head of the experimental station, could make decisions in this matter (page 1210 of the German transcript). The witness Kirchheimer stated, corroborating the testimony of the witness Dr. Kogon, that all the typhus experiments were begun by Dr. Ding. (page 1360 of the German transcript). Only Dr. Ding infected the experimental subjects. The defendant Hoven, as the witness Kirchheimer explicitly stated, was not in a position to prevent the experiments after the experimental persons had been infected by Dr. Ding. According to Kirchheimer's statements, the defendant Hoven never had a vaccination needle in his hands, and never made any injections on the experimental persons (page 1355 of the German transcript).

Of decisive importance in this regard should be the further testimony of the witness Kirchheimer that during a period of $1\frac{1}{2}$ years, namely from the end of 1941 until the beginning of 1943, the defendant Hoven entered the ward of Block 46 only twice. The witness hereby left room for the possibility that the defendant Hoven was only visiting the Jewish prisoner Cohn, who was employed in the ward as chief male nurse and whose life the defendant Hoven had saved (page 1355/6 of the German transcript).

If the defendant Hoven had been active in Block 46 as Dr. Ding's deputy, then he would have had to enter the ward more than twice during $1\frac{1}{2}$ years.

So far as the infection through typhus-bearing lice in November 1942 is concerned, the following facts are clear from Dr. Ding's diary - Document NO-265, page 36 of the German and page 38 of the English Document Book 12.

1. Through the infection by lice no persons died. The test persons did not even fall sick, for according to diary entry of 4 January 1943 five persons showed only atypical illnesses of short duration, i.e. illnesses which had no causal relation to the infection through lice (Document Book 12, page 40 of the German and page 41 of the English.)

2) Lice were sent to Buchenwald only twice. Both shipments were destroyed (page 39 of the German, page 40 of the English Document Book 12).

Regarding this the witness Dr. Kogon testified that it was the defendant Hoven who ordered the destruction of the lice (page 1203 of the German transcript). The witness Kirchheimer has confirmed these statements by Dr. Kogon (page 1351, 1353 of the German transcript).

It will be proved that the defendant Hoven: a) did not order or carry out any typhus experiments in Block 46 whatsoever;

b) that he consented to Dr. Ding's appointment of him as deputy for Block 50, and for a short time also for Block 46, only upon request of the underground camp government. This was done in order to enable him to accommodate political prisoners who were endangered, especially non-German subjects, in the wards 46 and 50, and it will be proved that his activities as deputy consisted only in this assistance to the political prisoners.

As far as the selection of the persons for typhus experiments is concerned the testimony of the witness Dr. Kogon proved that the defendant Hoven did not select all the test persons for the typhus experiments. (In this connection I refer to page 1197 of the German transcript). According to the transcript, the method of selecting the test persons differed at different times. V Volunteers were used in the first two experiments. Later on the test persons were picked by the a) camp physician or SS camp commandant, b) National Criminal Police Bureau (Kripo). Towards the end transports arrived from other camps for these typhus experiments.

Accordingly, the defendant Hoven picked only a small number of the test persons.

I shall now prove:

a) that the defendant Hoven chose only German habitual criminals for the experiments; and furthermore, b) that the defendant Hoven took over the selection of prisoners on the express request of the underground camp government in order to prevent others than German habitual criminals from being used in these experiments.

As to the further charge against the defendant Hoven that he took part in the execution of the euthanasia program, it has already been proven by the testimony of the witness Dr. Mennecke that the defendant Hoven had no part in it whatsoever. Neither did the defendant Hoven select prisoners for euthanasia,

nor did he give other orders for the carrying out of the euthanasia program.

According to the testimony of the witness Dr. Mennecke, prisoners of the concentration camp Buchenwald were selected for the execution of the euthanasia program in the years 1940 and 1941 by a medical commission which came from Berlin and of which Dr. Mennecke was a member.

This commission filled out its own reports for every prisoner who was to be killed. Those reports were sent to the Reich Ministry of the Interior, where they were examined by three experts independently of one another (page 1880 of the German transcript of 17 January 1947). After the experts had given their decisions on the basis of the reports, another commission passed final judgment. On the basis of this final judgment the transfer of the persons intended for the euthanasia program to the euthanasia institutions was ordered by Berlin (page 1881 of the German transcript). The Bernburg asylum was decided upon as the one to be used as the euthanasia institution for the prisoners from Buchenwald Concentration Camp.

It is therefore incorrect when the prosecution asserts:

The defendant Hoven as chief physician of Buchenwald Concentration Camp took part in the euthanasia program and personally ordered the transfer of at least 300 to 400 Jewish prisoners of various nationalities to the Bernburg euthanasia station where they were killed (page 107 of the German and page 59 of the English transcript of 9 December 1946). The high Tribunal will remember the chart which was explained in this court by the prosecution. This chart showed the offices that took part in the euthanasia program. The defendant Hoven did not even appear on that chart. These explanations, in connection with the testimony of the witness Dr. Mennecke, show without a doubt that the defendant Hoven could not have given the orders as asserted by the prosecution. The transfer was ordered by Berlin offices after the expert and the final commission had given their decision. The witness Dr. Mennecke testified in addition that the defendant Hoven did not take part in selecting the prisoners for the euthanasia program. I refer in this matter to page 1930 of the German transcript. Dr. Mennecke also testified that the defendant Hoven did not bring the prisoners intended for the euthanasia program before the commission (page 1938 of the German transcript).

According to the testimony of the witness Dr. Mennecke, the entire activity of the defendant Hoven in the program being carried out by Dr. Mennecke consisted in greeting the witness Mennecke in 1941.

He did not even see the defendant Hoven during the previous visit of the witness Dr. Mennecke at Buchenwald in 1940. This is understandable since, according to Document NO-591, submitted by the prosecution, defendant Hoven was not yet working in the concentration camp at Buchenwald in 1940.

Thus it may be accepted as proved by evidence submitted by the prosecution that the defendant Hoven did not participate in the euthanasia program.

Beyond that, on the basis of testimony given by the witnesses Dr. Kogon and Kirchheimer it is to be accepted as proven that the defendant Hoven, in collaboration with the underground camp government at Buchenwald, prevented the execution of euthanasia program 14 f 13 by substituting counter-action 13 f 14. That persons, designated for euthanasia by Dr. Mennecke, especially the 1200 Jewish prisoners, were not transported to Bernburg is especially due to the intervention of the defendant Hoven (pages 1238, 1292, and 1295 of the German transcript).

I therefore request that the defendant Hoven be acquitted of the charge that he participated in the execution of the euthanasia program.

In the event that this application be rejected, I shall submit further proof that the defendant Hoven did not participate in the execution of the euthanasia program, and that, moreover, he took counter-measures to keep this program from being into effect.

On the basis of the evidence submitted by the prosecution thus far only the following facts stand:

The defendant Hoven participated in the killing of prisoners. The killing of those prisoners, however, was in no wise connected with the euthanasia program.

With regard to this I shall prove that:

- 1) the number of these killings was considerably lower than the witness Roemhild, for example, stated;
- 2) that those persons without exception, were not political prisoners and especially not foreigners, and, above all not subject to the United Nations,

but exclusively German habitual criminals who acted as informers for the SS camp management and the Secret Police;

3) that all these killings were carried out at the instigation of the underground camp government;

4) that by each killing the lives of a great number of persons were saved, i.e. of political prisoners and Jews, and particularly of subjects of the United Nations.

5) that there was no other way to save these endangered persons than to kill these SS and Secret Police informers.

In order to prove this I do not have to refute the evidence submitted by the prosecution; and I do not need to present anything that has not been discussed already in this room. The witnesses whom I shall call and the documents I shall submit will supplement the testimony already given by the witnesses for the prosecution. I shall prove that all the killings in which the defendant Hoven took part were exactly analogous to the case Kushnir Kushnarew described by the witness Dr. Kogon. Dr. Kogon, a person with high Christian ethical and moral concepts, a witness far superior to the average prosecution witnesses, a witness whose truthfulness cannot be doubted in the slightest, expressed the following opinion about the killing of Kushnir Kushnarew: "I personally as a convinced Christian do not deny these people the right to have killed indisputably dangerous persons in this emergency who in collaboration with the SS endanger the lives of individuals or a large number of persons in the camp." (Page 1298 of the German transcript.)

The Tribunal, however, would have no true picture of the defendant Hoven if I should fail to prove that the defendant Hoven had saved numerous political prisoners from certain death and helped many of them to find freedom, particularly non-Germans, Jews, and subjects of the United Nations, inder peril of his own life. This concerns among others numerous non-German persons endangered by the Night and Fog (Nacht und Nebel) Decree.

Regarding Point 4 of the Indictment (membership in organizations declared criminal by the IMT.)

According to the decision of the IMT persons are not to be charged with membership in SS organizations designated as criminal, if a) they withdrew before 1 September 1939; b) the state had placed them in the ranks of the SS in such a way as to leave them no choice whatever in the matter (page 16527 of the German transcript of 30 September 1946.)

On the basis of this decision of the IMT I shall prove that the defendant Hoven received an order on 26 August 1939 to report for active duty with the Waffen SS and thus: a) left the Allgemeine SS to which he had belonged since 1934; b) was pressed into the ranks of the Waffen SS, compulsorily and against his will.

I shall prove in particular that the order to report for active duty with the Waffen SS had the same legal force as the order to report for active duty with the armed forces, and that it was just as impossible for a member of the Waffen SS to resign during the war as it was for a member of the armed forces.

DR. STEINBAUER (For the Defendant Beiglboeck):

Members of the Court:

In modest and simple language, but I hope none the less effectively, I am going to explain to you in a characteristic outline the principles in accordance with which I am intending to put forward the arguments in favor of my fellow countryman, the defendant, Dr. Wilhelm Beiglboeck, university professor in Vienna.

In the big trial against Goering and others, I have had already an opportunity of reliving the growth and the disappearance of Adolf Hitler's Reich which was finally marked by tyranny, enslavement, war and hunger, terror and mass murder. In this trial we again had to hear about bloodshed, cruelties, sadism, assassination and mass murder. Both trials have one thing in common, namely, that the victims were chiefly non "behind barbed wire" whose normal fate already was to be deprived of their freedom, to have to serve as slaves, to suffer hunger, long, drawn-out sickness and early death. Public opinion, being almost crushed by the worries for their daily bread, follows the War Crime Trials which continue one after another with an ever-decreasing interest

and views in particular the so-called doctors' trials, as the empty galleries show, with reluctance and inner reserve. This is due to the fact that the men who are here indicted should not open wounds but heal them, and that they should not kill but prevent death! But this circumstance does not only involve the danger of biased publicity but also that we, the guardians and servants of justice, unconsciously become hard, thus unjust, in view of the strongly optical effects of the facts with which we are here concerned unless we pay the greatest attention also to the so-called inner facts. For this reason I am going to begin by replying in my defense to the question: who is this Dr. Beiglboeck?

1. Personality:

As the son of a country doctor, he had personal experience from the days of his early childhood of the joys and sufferings of the medical profession and chose out of idealism the occupation of a doctor as his life's work. I am going to prove to you by questioning the defendant himself, by submitting documents, in particular certificates from his teachers, by presenting to you the long list of his works, that the Prosecutor was not wrong when he said of

Beiglboeck: "that he, although still young in years, is, nevertheless, known for possessing remarkable scientific aptitudes." Beiglboeck had the good fortune of meeting among his teachers two people whose names are immortal in the history of medicine. They are the two internists, Franz Chvostek, head of the Third Medical Clinic at Vienna, and Hans Eppinger, head of the First Medical Clinic at Vienna. Chvostek emphasizes at the conclusion of his certificate not only the scientific abilities, the industry of his student, but, above all, his humane attitude towards the patients entrusted to his care. Eppinger, the famous internist who counted the most prominent statesmen like Marshal Stalin among his patients, calls Beiglboeck in his certificate his most capable student. Chvostek and Eppinger are already dead, and the two certificates originate from a period before the experiments which are here under review, therefore, must be considered as correct and unobjectionable documents.

I can, therefore, sum up my remarks about the personality of the defendant by saying that the words apply which Euripides, the great Greek poet of tragedies says about Anaxagoras, the philosopher:

"Happy is the man who achieved knowledge

For the benefit of research!

Never he feels the urge to make his neighbor suffer,

Nor is he driven to do wrong for such motives!"

II. Order from Above:

My second line of argument is going to be the reply to the question as to how it is possible that a man of such high qualities finds himself in the defendants' dock as an alleged criminal. The same question was asked by the Heidelberg psychiatrist, Dr. Mittscherlich, the head of the German Doctors' Delegation, when he wrote: "In the defendants' dock there are side by side with scientifically meaningless doctors experts of great reputation. From the prison witnesses with prominent names are brought in. Two famous scientists have committed suicide in connection with this trial. These events prove that in passing judgment on the events, considerations of a purely legal and criminalistic nature will not suffice;

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that, on the contrary, the question must be asked how it could happen that such men found themselves in the defendants' dock."

I am not going to reply to the question of the ethical motives as a defense counsel until I deliver my final plea, and I am going to limit myself at this stage to the purely legal aspect of the subject. The reply is: Beiglboeck was forced to undertake the sea-water experiments for which he is indicted and has carried them out against his will, acting upon "an order from above" as a soldier. I am, of course, well aware of the fact that the Charter of August, 1945 and Control Council Law 10, which is the more direct basis of this trial, provides in Article 4, Paragraph 2, that the fact that a man acted under the order of his superior does not relieve him of his responsibility, but that this fact may be considered as an attenuating circumstance. This, however, merely means that reference to "an order from above" alone is not sufficient to exonerate a defendant but that this provision is by no means intended to render it impossible to invoke generally valid principles of law such as the exclusion of guilt on the grounds of fear and coercion. Now we, fortunately, have a very remarkable precedent in this question, namely, the verdict of the International Military Tribunal of Nurnberg which declares in respect of Article 8 of the Charter: "that a soldier was ordered to kill or torture in violation of the International Law of War has never been recognized as a defense to such acts of brutality, though the order may be urged in mitigation of the punishment. The true test which is found in varying degrees in the Criminal Law of most nations is not the existence of the order but whether a morale choice was in fact possible."

I shall prove to you beyond doubt by questioning the defendant himself, by producing evidence from superiors and colleagues, by submitting letters written by the defendant during the critical period that the defendant did everything in his power to disassociate himself from the experiments which were contrary to his high conception of the profession of a doctor.

III. The indictment:

A.) THE CONSPIRACY:

Although it is contrary to the natural sense of justice to render any one responsible under criminal law for offenses committed by other persons, the indictment has, nevertheless, attempted to render the defendant, Beiglboeck, responsible together with the other defendants on all counts. In my final plea

I shall not only deal from the legal point of view with the question of the "order from above," but I shall also express an opinion on the problem of the legal character of the so-called conspiracy. At this stage of the proceedings I shall deal only very briefly with the legal aspects by saying that the Prosecutor had no justification at all in this trial to use the argument of conspiracy since the most important element, namely, the legal foundation is lacking: if we turn to 'Control Council Law 10 for a moment, we find that only participation in a common design or a conspiracy in connection with a crime against peace is punishable (Article 2, 1a). For this reason I am not going to say one word about the other experiments, although it would certainly be tempting to express an opinion as a jurist on the question of Euthanasia. At any rate, one thing clearly results from the documents, Exhibits No. 129 to 137 submitted by the Prosecution: that the defendant, Beiglböck, has had nothing to do with the planning of the alleged crimes. I am going to prove by questioning him and his co-defendants that he knew only two of the so-called conspirators. These were Handloser, who once gave a military medical lecture in Vienna a long time before the war, and Schroeder whom he knew as his supreme superior just as any soldier knows the names of his generals without ever having had any closer associations with them. Beiglböck subsequently met Becker-Freysong and Schaefer. All he can be indicted for from the point of view of criminal law, therefore, is his cooperation in the execution of these experiments and this leads me to the next point of the proceedings:

B.) The Criminal Character of the Experiments in General:

- 1.) The Prosecution considers experiments as
- 1.) War crimes.

A more *prima facie* consideration of the Prosecution documents reveals that there can never be any question of war crimes for the simple reason that such war crimes, according to Article 11b,

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of Control Council Law 10 can only be committed in respect of nationals of allied countries, and the Prosecution have utterly failed to present any proof of this to the Tribunal. I may, perhaps, remind you in this connection of the SOS call addressed by the Assistant Prosecutor to the witness, Vioweg: "Of what nationality were the inmates which were used as subjects for sea-water experiments?" and he replied, "I am unable to answer this!"

(Page 473 of the German record). The witness, Vieweg, also testified that the subjects of the experiments were without exception German-speaking Gypsies. I shall, therefore, not utter a single word about war crimes at this stage and I am now turning to the question as to whether the sea-water experiments represent so-called crimes against humanity. Control Council Law 10 gives no definition but contents itself with citing examples like murder, rape, and other cases of inhuman treatment of the civilian population.

It is an old experience of law that the prosecutor speaks louder and more emphatically whenever the facts as such furnish only little proof. Therefore, the chief prosecutor said comparatively little about the mass murders which have shocked the civilized world because they spoke for themselves, but he has said relatively much about sea-water experiments. I shall, therefore, deal in my arguments of proof in the first place with

- a) the character of the experiments
- b) the manner of their execution.

As I am going to prove to you by questioning the defendant himself, by producing witnesses and experts, the sea-water experiments which had been prescribed to my client from the outset up to the smallest details and placed under a subsequent check were experiments which could be stopped at any moment. In the same way I am going to prove to you that Beiglboeck, at any rate, actually always did interrupt these experiments early enough to render a damage to the subjects' health quite impossible. A glass of water or a completely harmless injection was sufficient to restore to the subject his full efficiency.

In his opening speech General Taylor said, "The experiments have produced nothing that could be utilized for civilized medicine" (page 119 of the German record). I must very definitely contradict this conception. So long as there are seafaring nations, there exists also the wish, and it has always been an aim, which it was worthwhile to pursue, to render sea water, which is an element available in such large quantities, serviceable to humanity, in other words, to render it drinkable to save men in distress at

sea, in particular in times of war, sailors and airmen, is truly serving humanity. I shall, therefore, prove to you that other scientists of the Allies before Schaefer and Berka have attempted to solve the problem of rendering sea water drinkable. I shall submit to you research work on this point made by the Englishman, A. Parker and W.S.S. Ledell, and of the American, Elkinton, from which you may see that prominent scientists of the Allies have been engaged in studying in the service of humanity the same problem which is now being used to accuse Beiglboeck of a crime. May I also in this connection point out that it will always be one of the achievements of American science that an American professor, Andruss Ivy, was able to bring the same problem in a more perfect way near to its final solution a long time before the German Schaefer tackled it.

One may well turn with horror from the experiments which are the subject of this indictment, such as those performed by the sadist, Dr. Rascher; but one thing will clearly result from the submission of evidence, namely, that the chief prosecutor is wrong when he raises the collective suspicion in front of world public opinion by declaring that none of the experiments with which the indicted physicians are charged has furnished a contribution to civilization and humanity.

I now propose to turn to the last point of my statement considering the criminal character, namely, the manner in which these experiments were carried out. The chief prosecutor has also dealt with this aspect in his opening speech. He mentioned in particular the sea water experiments as a particularly striking example when he said, "Nothing more terrible than a piece of gelatin, a somewhat pervious filter, and some salt water would have given the German Wehrmacht within a few hours the reply to the question and a review. If they had had to pay the small price of two dollars for each subject, the same price which American scientists must pay for a cat, they might have considered the matter more carefully and might not have created a big organization and performed experiments on forty-two men who were tortured." Now, I have the greatest respect for the chief prosecutor who proved himself to be an eminent lawyer, an expert on military

matters in his great speech against the General Staff, but even he should submit to the principle that it should be left to the competent experts to give replies on special questions of detail.

Document Exhibit Number 132, report of the technical office of the Air Force to the Reichsfuehrer SS, now shows that two methods for rendering sea water drinkable were under discussion. The method invented by Schaefer, which for the mere setting up of the manufacturing plant required two hundred tons of iron and caused an expense of two hundred fifty thousand Reichsmarks, requiring up to three tons of pure silver monthly for the production process, made this method practically impossible in view of the raw material shortage in the German war machine. On the other hand the Berka method required no special manufacturing plant and no bottle-neck raw materials and thus offered the possibility of speedy introduction by the Luftwaffe and the navy.

As is shown by the Vienna police record (Exhibits Number 137, 138, and 139) the Berka method was based on the not unfavorable preliminary experiments carried out by Colonel Sirany. Although this method opened up only negligible prospects of effectiveness, in spite of all the doubts expressed by the medical profession, even such small profit could not be turned down with sufficient certainty in war at the time when a great nation was fighting for its existence. This also led an internationally recognized scientist like the clinical physician Eppinger to favor the re-examination of the two methods. I shall prove this by the hearing of the defendant and by evidence which the famous pharmacologist of Berlin University, Dr. Huebner, will give. As has already been mentioned, the experimental procedure had been prescribed to my client up to the smallest details. It will further be shown by the above evidence that the performance of these experiments on human subjects, which are in themselves quite harmless, is absolutely justified. The penal lawyer, however, is also interested in the even more important question as to who the subjects were on whom these experiments were carried out. I shall prove by the hearing of the defendant and by witnesses that in the first place, according to Eppinger's proposal, these ex-

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periments were to be performed in his own clinic or in military hospitals and that this proposal was rejected because of the military emergency and further that my client -- and this I shall also prove -- was explicitly assured that the subjects on which these experiments were performed were volunteers. In forming an opinion on this question, it will be impossible to neglect the fact that Beiglboeck, as will be proved by his defense, was personally and subjectively convinced that he was dealing with voluntary subjects for his experiments. Beiglboeck had been assigned to combat units in the operation zone while the other experiments were

carried on. The concentration camp and its methods were absolutely unknown to him, and they have come to his horrified knowledge only in the course of this trial. At Dachau they had deliberately kept him apart from everything. And, finally, I am also happy to show with the help of original notes made by the medical assistants in these concentration camp experiments which have been found and by affidavits made by these same persons that Beiglboeck carried out these experiments which he had been ordered against his will as a soldier to perform after experimenting on himself and in accordance with the rules and precautions of medical science.

These documents when examined by experts will show beyond doubt that the experiments had no lasting damaging effects and caused no death among the subjects. They will objectively refute the contradictory evidence of the prosecution witnesses who gathered their knowledge from hearsay.

From this it must be concluded, however, that there can be no question of crimes against humanity either. In conclusion I can therefore say that if the evidence which I shall produce only yield half of what can be expected, the whole structure of charges erected by the prosecution on the subject of sea-water experiments will collapse like a house of cards and give effect to my submission to acquit my client, Prof. Dr. Beiglboeck. I should be happy about this because I would thereby have contributed for my part to preserving an eminent physician and man for my country which needs every man for its reconstruction; and I would furthermore have proved that scientific research and the physician in the more direct sense are not exclusive of each other but that they can well be a synthesis in the service of humanity and for the benefit of suffering mankind.

DR. KARL HOFFMAN: Mr. President, and Your Honors:

The Prosecution has submitted only a single document against Dr. Adolf FOKORNY, written by himself. This is his letter to HIMMLER dated October 1941 - Document NO-35, Exhibit No. 142. The other documents which the Prosecution has submitted in this case are outwardly in no connection with the defendant Dr. FOKORNY. They even, as Document NO-39, Exhibit No. 153 and the following shows, start a whole new causal series, in which the

suggestion of the defendant Dr. POKORNY is overshadowed by the suggestion made by such a powerful agency as the deputy Gauleiter in Niederdonau.

The defendant will now take the witness stand and give the reasons which led to his letter - Exhibit No. 1942. He will point out that as a physician and a person interested in Botany he was convinced, after studying the publications of Dr. Madaus and Dr. Koch, that the plant caladium, from the medical point of view, does not have a specifically sterilizing effect, and that, from the botanical point of view, a plant indigenous to North America cannot be grown in Germany on such a large scale that it would be available in large enough quantities for sterilization. He will explain why in his letter he said exactly the opposite of what in his opinion was the truth. He will refer to a report which he received, that sterilization by operation was to be carried out on a large scale, but that it might be postponed if there should be any possibility of carrying out such sterilization by means of a drug. The defendant Dr. Pokorny will state that it was his intention to deceive by praising such a drug and thus to postpone the sterilization by operation as long as possible.

The Prosecution has already indicated that it does not propose to acknowledge such an argument. (P. 557 of the German transcript). The defendant Dr. Pokorny, however, will call witnesses to prove that he mentioned these considerations when he wrote his letter, and that he has not just invented them now. The defendant Dr. Pokorny will, in addition, reveal what the Prosecution could not present, the fact that he received an answer to his letter and that he in turn answered once more, so that in all the crimes with which he is charged his active participation involved only letters.

The defense will show that Himmler's efforts to produce a sterilization drug from caladium were unsuccessful. The witnesses to be examined on this point are the responsible men of the Madaus Firm in Dresden. The chemist of the firm will discuss the analysis and synthesis of a caladium

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plant in the hothouse! Finally, Dr. Koch, who has already been mentioned several times in the course of this trial, the medical director of the Madaus.

Firm, will appear as a witness. Dr. KOCH will be asked by the defense to what extent he himself believes that the scientific assertion which he made, that caladium can be used to sterilize a human being, is true. He will also be asked by the defense whether it is at all possible in practice to produce enough caladium to justify even thinking of poisoning by caladium. Finally, he will also be asked to testify, what progress the caladium experiments which HIMMLER had ordered had made by the end of the war. It will then be shown that the caladium experiments were, at the end of the war, still in the stage of animal experiments and had not yet led to any usable result. If the witnesses from the MADAUS Firm in Dresden should in this connection not seem to be disinterested witnesses, Instructor (Dr. JUNG of the Pharmacological Institute of the University of Wuerzburg, who has been called by the defense as an expert, will discuss objectively the scientific value of Dr. MADAUS' and Dr. KOCH's thesis of sterilization with caladium. Moreover, he will state specifically whether caladium is capable of sterilizing a human being at all. He will finally state how high the general scientific value of drugs produced by the MADAUS Firm is and what German physicians think in general of the preparations which the MADAUS Firm has produced. Dr. JUNG will say in this connection that it is his opinion that German medical men know from experience that publications and drugs of the MADAUS Firm do not have absolute scientific validity, because it must be considered that this is a firm whose aim it is also to sell the drugs which it produces. Finally, the defense will call witnesses who will testify to the reputation, the political attitude, and other conduct of the defendant Dr. FOKORNY during his civilian activity up to 1942 as well as during his period of military service. Evidence as to Dr. FOKORNY's attitude will furthermore be given by numerous affidavits which will appear in the document book.

MR. HOFFMANN: The opening statements have now been concluded.

MR. McHANEY: If the Tribunal please, the Prosecution has several comments to make concerning certain questions which have been raised by the opening statements of the Defense Counsel to the Tribunal. Does the Tribunal wish to adjourn prior to these remarks for the afternoon recess?

THE PRESIDENT: What are the nature of the comments the Prosecution desires to make and how long will it take to make them?

MR. McHANEY: They concern briefly to motions and the nature of the motions to dismiss certain paragraphs of the Indictment as contained in a number of the opening statements, as well as the attack on Count 1 of the Indictment; that is to say, the Count which charges conspiracy to commit war crimes and crimes against humanity.

The Prosecution, of course, is not prepared at this time to make any argument on any of these points, but I think it would be well if we could reach some agreement as to the manner in which these questions are to be settled. In other words, the Prosecution would look with disfavor upon the procedure now, to settle each and every motion to dismiss prior to the time the Defense Counsel began to put in evidence on behalf of their defendants. We would prefer, if it is suitable with the Tribunal, and with the Defense Counsel, to have the Tribunal rule upon the particular motions to dismiss, as made by each Defense Counsel, prior to or immediately after such Defense Counsel has put in his approval.

THE PRESIDENT: You mean the rulings will be made in the case of each individual defendant when that defendant has rested his case?

MR. McHANEY: That would suit the Prosecution very much. The problem is this: The first question raised by substantially all of the opening statements is the legal basis for the crime of conspiracy. That question is common to all

of the defendants, since each of them have been charged in Count I. The Prosecution would be prepared to submit a brief on this question at a rather early date, I should think, at the least, by Monday of next week, so that the Tribunal could at any time rule on the question of conspiracy. Be that as it may, I do not think there is any necessity for a ruling on that particular question because I do not think it affects the rights of any of the defendants in so far as proof is concerned. In other words, a conspiracy is made out normally by showing the participation of the defendants or their connection with the subsequent crimes; that is, with the war crimes as alleged in Count II or the crimes against humanity as alleged in Count III, and which is not normally the subject of separate proof in and of itself.

And, I should think that whatever the ruling may be on the conspiracy question, each of the defendants will put in all of the proof that he has available; that he was not connected in any substantial manner with any of the crimes charged there -- Counts II and III.

As to the motion to dismiss with respect to certain paragraphs of Count II, there may be a slightly different question there which might require an early ruling by the Tribunal, but even as to that I am not sure.

The third question which has been raised by the opening statement is that a number the defendants have been implicated by proof of criminal experiments which were not explicitly particularized in the Indictment. For example, the blood coagulation, fleckfieber and warfare experiments. The Defense Counsel uniformly have taken the position that they are going to ignore this proof on the ground they were not claimed with the crimes which were involved in the experiments. As to that point, I should think there would necessarily have to be a ruling by the Tribunal before any defendant, who is affected by such proof, has completed his case.

And, I might say, without extended argument, that the Prosecution takes the position that the defendants have been sufficiently charged under paragraph 6 of the Indictment with having committed war crimes, in that they performed medical experiments on involuntary human beings which resulted in murders, tortures, and other inhuman acts.

The sub-paragraph of paragraph 6, purports to give particulars of certain of such experiments, but it is explicitly stated in the Indictment, and in paragraph 6 that the experiments were not limited to those particularized. The Prosecution urges that, because we have made every effort to advise the defendants in great detail of the nature of the crimes with which they are charged, we should not thereby be limited in submitting our proof and incriminating these defendants because they happen to have been involved in one or the other experiments which are not particularized in the Indictment. This last point I should think, would require an early ruling by the Tribunal. The ruling on the motion to dismiss, and particularly on the conspiracy Count, I think, could be handled on an individual basis sometime before the defendant had rested its case.

To rule on all of these questions, as raised by the defendants, would put an intolerable burden upon the Prosecution in preparing the necessary briefs for all 23 defendants, and would also require extended study by the Tribunal before a ruling could be reached, and this would result in a delay in the continuation of the presentation of the defendants evidence for, I should think, a minimum of a week, and very likely much longer than that. So, my position is that we be permitted to file brief on each defendant at a time, I should hope, before he begins to present his defense evidence. Such briefs, of course, would be made available to the Defense Counsel,

and at some point before the conclusion of his case the Tribunal would reach a ruling on the question raised.

THE PRESIDENT: The Tribunal will ask the Counsel for the Prosecution that before the defendants are call upon to proceed with their evidence, the Prosecution intends, itself, to ask a dismissal as to any count against any defendant?

MR. McHANEY: That may well, be, Your Honor. I am not prepared, at this time, to make any detailed statement on that point, but after a careful analysis of the proof as it has gone into the prosecution's case in chief, we will attempt to be quite liberal in eliminating any points which we do not think are genuinely in issue and not genuinely proved by the Prosecution.

THE PRESIDENT: It would seem, as to the objections raised by Defense Counsel, to certain evidence that has been introduced, as not falling within the charges named within the Indictment, that the sooner that question be settled the better in order that the defendants would know what evidence they would have to prepare. If that question was not settled until each defendant was called, he would probably feel compelled to prepare evidence on those points which might or might not be pertinent.

MR. McHANEY: I think that is very true, Your Honor, and that was the third point which I have stated has been raised the opening statements of the Defense Counsel.

THE PRESIDENT: I understood the Counsel for the Prosecution, but I had the impression that the Counsel for the Prosecution though each one of those questions could better be settled as the case of each individual defendant was called instead of settling it in advance. I may be incorrect. I may have misunderstood the Counsel for the Prosecution.

MR. McHANEY: I probably did not express myself clearly. I think the question could probably be ruled upon rather easily and without the submission of any extensive briefs. It simply is a question of whether or not the

charge contained in paragraph 6 is proof enough to permit the Prosecution to make proof of experiments which are not particularized in sub-paragraphs of paragraph 6. And, once the Tribunal has decided one way or the other on that question then it will be either incumbent on the defendants to meet that proof in their case or they may if they chose disregard it.

Of course, the evidence, I think, no matter what way the Tribunal rules on the question just raised would be admissible and could be considered by the Tribunal against the particular defendant, especially on the conspiracy count, and in any event, going to the notice and knowledge of the particular defendant; that is, knowledge of the scope of medical experimentations on concentration camp inmates.

Going to the question of admissibility of evidence, it is simply a question of whether or not it now constitutes a charge of crimes against the defendant upon whether he could be found guilty by the Tribunal; and, that is the question which, I think, would have to be ruled upon probably before any of the Defense Counsel presents any evidence in order that they would be advised of the Tribunal's attitude on that point.

JUDGE SEERING: Mr. McHaney; the Tribunal understands as far as Count II and Count III are concerned, charges of crimes against Humanity and war crimes they are in and of themselves sufficient basis on which to predicate proof of criminality. The particulars of sub-paragraphs A to L, inclusive, are not a limitation upon the general allegations, but merely descriptive particulars of the general crime charged. Is that what you contend?

MR. McHANEY: That is correct, Your Honor.

DR. FLEMING: Attorney for the Defendant Krugowsky; Mr. President, the Prosecution has just suggested that it did not seem desirable to them if the Court should now decide whether the indictment is insufficient on certain grounds and should therefore be dismissed.

I would like to point out the following: The majority of defense counsel hold the point of view that there is no legal basis for the charge on the count of conspiracy. If the Court decides this question now, there will be no necessity for any defense counsel's going into this question during his case. It will therefore save time for the defense counsel and it will also save time for the Court who would have to listen to statements of defense counsel later.

Furthermore, the Prosecution in regard to Count II of the Indictment, has stated that they consider it desirable, unless I misunderstood the translation, to state in detail what is charged against each defendant only when the case of that defendant comes up.

If the suggestion of the Prosecutions followed on this point, the consequence would be that the defense would not know, during the whole period of preparation, for which counts it must prepare material.

For example, in the case of Defendant Mrugowsky, I have five counts of Count II of the Indictment. I have stated that the charge is not founded and should be dismissed. The question now is whether I must call witnesses for these five counts, have affidavits prepared -- generally, prepare the entire defense -- or whether the Court will now examine the question whether the Prosecution has presented evidence on these counts which may be considered conclusive proof against the Defendant Mrugowsky.

If the Prosecution has not submitted such proof, then, in my opinion, the charge should be dismissed and the Tribunal and the defense will not have to concern themselves with these counts anymore. Other defense counsel are in exactly the same position.

Further, the Prosecution pointed out that during its case, it submitted material on counts which were not included in the Indictment at all. I may point out that a regular charge, as demanded by the Charter, has not been made.

The Charter requires that the Defendant knows when he is charged and with what he is charged, and that he be presented with this information in sufficient detail. We do not know even today, which of the defendants the Prosecution is charging for the various experiments. I refer, for example to the Polygal experiments and similar experiments.

In the entire case of the Prosecution, this has not been stated. We are told only now which defendants are charged with which crimes, and what evidence and what proof the Prosecution has. I should therefore like to ask the Tribunal, whether at the present stage of the trial, a decision can be reached as to which counts the charges are inadequate and not according to the charter of the Tribunal, and should therefore be dismissed.

I ask that so defense counsel may know for the preparation of our case, what we have to deal with and what evidence we will have to present.

DR. FLEMING: Attorney for Viktor Brach, Mr. President, part of defense counsel in their opening statements did not mention the inadmissibility of Count I of the Indictment. I do not know the reasons for this. I can only speak for myself, consequently, when I say that I expressly and intentionally did not discuss this question because I consider it a part of the final plea. However, since the Prosecution has brought this important point up for discussion, and has suggested that it might be expedient to have the Tribunal decide on certain important points now, I should like to state, expressly for my client, Viktor Brach, that he agrees with the statements of defense counsel who objected to Count I this morning.

MR. McHANEY: I would like to state the Prosecution recognizes that the issue of the legal basis of Count I is being raised by all defendants. They need not make their application. We concede they all raise this question, although it has not been mentioned by all of them.

THE PRESIDENT: The record may show that that is understood and agreed to by the Tribunal.

DR. SEIDEL: Attorney for the defendants Gebhart, Oberhauser, and Fischer; Mr. President, to supplement the statement of my colleague, Dr. Fleming, I should like to add the following:

I make the application which the Prosecution has just suggested. In the course of the proceedings, documents have been submitted concerning experiments and medical experiments which are not listed in the indictment.

At the beginning of the trial, one defense counsel stated that the Indictment did not fulfill the requirements of the Charter. It was pointed out that the Indictment did not list, in detail, the crimes with which the

defendants are charged, and that it limited itself to legal statements.

I refer to Article IV of the Charter where it says:

"To preserve the rights of the defendants, the following procedure is to be taken: The defendants are to be given a copy of the Indictment as well as all documents within a reasonable period before the proceedings. The Indictment is to list the charges clearly and in sufficient detail in order to inform the defendants about the punishable actions with which they are charged."

I take the liberty of pointing out that before the proceedings

the defendants were not given any documents whatever. I take the liberty of pointing out, further, that in all these nine counts of the Indictment, for example, the experiments on Polygal are not mentioned.

Then, months after the beginning of the trial, the Prosecution comes with new charges. This is in opposition of the Charter, and the rights of the defendants are being infringed upon. Those rights were to be protected by these rules.

I, therefore, make application that the intention of the Prosecution to introduce new charges be rejected.

M.R. McHANEY: I think the Tribunal understands the position of the Prosecution on this point. I do not want to even begin to engage in extended argument. It comes as something of a surprise to hear any defense counsel, who participated in Case Number I before the International Military Tribunal, suggest that we have not advised the defendants of the nature of the crimes with which they are charged.

The Indictment in this case contains so many more particulars and is so much more definite than the Indictment which was sustained before the International Military Tribunal that there is no comparison between the two. The Prosecution has made an effort to advise each and every defendant in the dock of the major charges against him.

We now hear the suggestion made that we are to be limited because of the particulars which we have given. The crime charged against these defendants is that they have committed war crimes and crimes against humanity in that they they have unlawfully and criminally experimented upon involuntary human subjects. I submit that it would not have been a closed question if Paragraph 6 without any particulars whatsoever would have been a sufficient indictment, particularly in face of the Indictment which was sustained in Case I.

Also, in the charge sheets which are submitted to the defendants before the Military Commissions, such as the one at Dachau, they have tried upwards of 75 men on a charge sheet of not more than one page and which contains only

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general language of crimes. It is not here a question of dismissing any paragraph of the Indictment. These men are charged under Paragraph 6 and under Paragraph 11 with having committed war crimes and crimes against humanity respectively. We describe the way in which those crimes were submitted.

If the Prosecution is prepared to concede it has not proved that Karl Brandt was implicated in the high-altitude experiments or that Blome was not implicated in one of the other experiments; it is not a question of dismissing any part of the Indictment. The crime charged is contained in Paragraph 6. The Prosecution may well concede we have made no proof on a particular sub-paragraph thereof; but it constitutes no dismissal of anything against that particular defendant.

It does relieve him of the liability of going forward with proof that he was not implicated in that. Of course, this Tribunal has every right to now review the evidence in the prima facie case made by the Prosecution. If it decides we have not put in a prima facie case against Karl Brandt on the high-altitude experiments, the Tribunal can so advise Karl Brandt, and he will not have to go forward with proof on that particular experiment. But, certainly, there is no question of dismissing anything in the Indictment. Karl Brandt stands equally accused under Paragraph 6.

THE PRESIDENT: Counsel's position is correct in ruling that if the Prosecution has not made a case under a count, it would not call for a dismissal. It would call for a ruling that the defendant would be relieved from going ahead with rebuttal evidence on that certain charge or count or what it might be called.

MR. McHANEY: That is correct. That is the way the Prosecution understands it.

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Tribunal has taken note of the questions raised by the defense counsel as to whether, as a matter of law, not a matter of fact, the defendants may be held to answer the charge of conspiracy to commit war crimes and crimes against humanity. This is a basic legal question which, because of its extreme importance, the Tribunal is of the opinion should be answered only after the question has been fully briefed and argued by all parties to the cause. Therefore, the Tribunal will not pass upon the question at this time, but will reserve its ruling thereon until final hearing and after full consideration and argument and will incorporate its conclusions on the question in such opinion and judgment of the Tribunal as will finally be rendered.

Second: Something was said by the Prosecution immediately prior to the afternoon recess of the Tribunal to the effect that it was not the desire of the prosecution to put any defendant upon proof as to any charge which the prosecution might feel it had failed to establish. In view of the statement of the prosecution, which the Tribunal commends, the Tribunal suggests to the prosecution that it be prepared to make any announcement upon that matter which it wishes to make prior to the opening of the defendants' case on Monday, 3 February 1947.

Third: Concerning questions raised by defendants' counsel as to evidence introduced by the prosecution concerning acts of defendants not specifically charged as crimes by paragraph 6 and paragraphs "A" to "L", inclusive, of the Indictment, the Tribunal announces that it reserves its ruling upon any such question until the close of the case.

Is there any further matter to be called to the attention of the Tribunal?

MR. MC HANEY: In connection with the Tribunal's ruling on the second point, I would like to ask if it would be satisfactory if on Monday we made such announcements as we may have to make with respect only to the case of Karl Brandt.

THE PRESIDENT: It appears to the Tribunal that it would be only fair to the defendants if that announcement were made as soon as possible. It might not necessarily be made Monday morning, but, if any such announcement is to be made, it would be well to make it as soon as possible so that the defendants would be advised that as to any such specification or charge it would not be necessary for them to procure witnesses or introduce evidence. That was the only point in the mind of the Tribunal in suggesting that announcement be made Monday morning. The Tribunal is not holding the Prosecution to anything in connection with that matter, and if the announcement, if any, is made as soon as possible, with due regard to the matter which I have just mentioned, that would be satisfactory to the Tribunal.

MR. MC HANEY: Very well, Your Honor,

THE PRESIDENT: Does that answer your question?

MR. MC HANEY: Yes, indeed.

DR. RAUSCHENBACH (Counsel for Defendant Schaefer): Mr. President, I have a question which has been touched upon neither by the discussion before the recess nor by the ruling which has just been given by the Tribunal. It is a question connected neither with the question of the conspiracy nor with the statements by the

Prosecution.

I made the request with regard to the defendant Schaefer that his case be immediately dismissed. I believe that I have understood the member of the Prosecution correctly to the effect that he means that such a dismissal could only be decided upon when the case is being presented. However, when the case is being presented and the presentation of evidence has been completed, then we may just as well wait until the verdict.

It is the practice of the English and American courts to which I have referred, as far as it has come to my knowledge from the literature which has been made available to me, has the effect of finishing the case before the presentation of evidence; that is, after the presentation by the Prosecution when it is already demonstrated that the defendant can not be sentenced. Therefore, I want to point out once more the possibility with regard to the case of Schaefer to make a ruling to this effect before I present evidence on behalf of the defendant Schaefer. That is the question of the dismissal of the proceedings against Schaefer and his discharge from confinement.

DR. WEISGERBER (For defendant Siévers): Mr. President, may I be permitted to ask one more question with regard to point No. I? If I have correctly understood the ruling of the High Tribunal, then the decision can only be made on Point I when the defense has made a statement with regard to this question.

In my presentation this morning I stated that I have not taken any stand with respect to the question of the conspiracy because I have joined in the statement of my colleagues, and, therefore, I have not made any statement of my own in this connection in order to avoid repetition. If the Tribunal should desire a statement of all the Defense Counsel who have not touched this question specifically, then I would request the Tribunal to make a statement with regard to this subject.

THE PRESIDENT: I stated that this question would be reserved until the close of the case when all defendants may be heard upon the matter. The ruling of the Tribunal is made strictly without prejudice to the right.

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of any defendant to urge the matter of the conspiracy charge and its inapplicability to any or all defendants. The right is expressly reserved to any or all defendants. The right is expressly reserved to the defendants to argue and present that question at the proper time at the close of the case.

Upon the question just suggested by Counsel for the defendant Schaefer, which has been suggested by other Defense Counsel, the Tribunal will reserve its ruling upon any such motions, which may be renewed at an appropriate time. The Tribunal strictly preserves to the defendants the right to urge the question which has been suggested. The Tribunal at this time reserves its ruling.

There being no further question to come before the Tribunal, the Tribunal will recess until 0930 o'clock Monday Morning.

(The Tribunal recessed until 0930 hours, 3 February 1947)

CORRECTED COPY

Official Transcript of the American Military Tribunal
in the matter of the United States of America, against
Karl Brandt, et al., defendants, sitting at Nurnberg,
Germany, on 3 February 1947, 0930, Justice Beals presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal.

Military Tribunal 1 is now in session. God save the United States
of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are
all present in the court room.

THE MARSHAL: May it please Your Honor, all the defendants are
present in the court.

THE PRESIDENT: The Secretary-General will note for the record
the presence of all the defendants in the court.

The defense may proceed.

MR. McHANEY: May it please the Tribunal, prosecution wishes to
announce that in order to shorten the trial and to eliminate argument
it voluntarily removes as issues in this action, the following charges
contained in the indictment. Against the Defendant Karl Brandt, the
Charge in paragraph 6a concerning participation in the high-altitude ex-
periments; against the Defendant Handloser, the Charge in paragraph 6a
concerning participation in high-altitude experiments. We will have
further announcements of this sort to make in the course of the next
few days we expect. It is understood that the removal of these
issues from the case with respect to the foregoing-defendants constitutes
no admission by the prosecution that such defendants did not as a
matter of fact participate in these experiments.

THE PRESIDENT: The Secretary-General will note for the record the
elimination of the Charges as stated by the prosecution.

The defense may proceed.

DR. SERVATIUS (Counsel for the Defendant Karl Brandt): On behalf
of the Defendant Karl Brandt, and with the permission of the

Tribunal I shall call the defendant to the witness stand at once.

THE PRESIDENT: The Tribunal grants the permission. Defendant Karl Brandt will take the witness stand.

MR. MC HANEY: May it please the Tribunal, we have no objection to the defendant Brandt taking the witness stand at this time. However, I wish the record to show that the prosecution has not been advised that the defendant Brandt would take the stand at this time and henceforth I will ask that all defense counsel comply with the rule of the Tribunal which requires that a minimum of 24 hours notice be given to the prosecution. It is to be expected that prosecution will have a few questions to put to one or the other of the witnesses to be called by the defense and we would like to have some time to consider those questions.

THE PRESIDENT: In the future the defense counsel will observe the rule and give the prosecution 24 hours notice of the calling of any witness whether a defendant or a witness.

MR. SERVATIUS: Mr. President, on Saturday the Marshal of the court asked me who the witnesses would be that I was going to call and I told him that the defendant himself would be the first to take the stand. I assumed that the prosecution too would be informed accordingly. That is how the error arose.

KARL BRANDT, a defendant, took the stand and testified as follows:

BY JUDGE SEBRING:

Q Hold up your righthand and be sworn, repeating after me; I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

DIRECT EXAMINATION

BY MR. SERVATIUS:

Q Witness, state your name and when you were born.

A My name is Karl Brandt and I was born on January 8, 1904.

Q Will you describe to the Tribunal an element of your life until

you started studying at the University.

A First of all, in my home town at Muehlhausen I visited school and secondary school. In 1919 when Muehlhausen and Alsace had been occupied by the French I was instructed to leave and I temporarily took up residence in Thuringia, where I visited a prep school for secondary school, and the last two years until my matric I spent at Dresden in a boarding school where I passed my matriculation examination. I passed my matriculation in 1923.

Q What did you decide to study and how did you arrive at that decision.

A On my mother's side my family was one of doctors. So that it was a fairly obvious thing to me to study medicine. A brother of my mothers has been a pupil of the first psychologist in Zurich, Professor Borel, recently mentioned by Professor Leibbrand.

Q Where did you study until the completion of your studies?

A First of all at Jena. I should like to point out that those days were very difficult ones for us. It was the time of inflation with all its social complications. My studies at Jena did not proceed altogether too smoothly. Since I was studying medicine and was intending to become a doctor, I was short of connections with real patients during the pre-clinical part of my studies. Just as soon as my fourth term I visited the clinical lectures and in that manner I got into touch with my later chief, Professor Magnus, who in those days was the Chief medical officer at the surgical clinic at Jena. I owe it to him that after four terms I succeeded in passing my physicum examination so that I actually arrived at the clinic prematurely. After I had passed this physicum examination, I first of all proceeded to Freiburg where I continued my studies, and since even in those days I had already decided I would be a surgeon, my further studies were adjusted accordingly to this surgical teaching and I changed universities quite frequently. I went to Berlin where I studied most of all under August Bier. I went to Munich because there Professor Sauerbruch was lecturing. And finally,

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for the purpose of passing my State examination, I returned to Freiburg where I was during 1927 and 28, during the winter terms, to pass my examination. I immediately proceeded to pass my doctor examination so that the spring of 1928 for the conclusion of my studies at universities.

Q. Then where did you actually receive your practical instructions as a practical doctor?

A. I had previously mentioned the name Professor Magnus who at the time had been medical officer at the surgeons university clinic at Jena and in the meantime he had become chief doctor at the hospital at Bergmanns Heil at Bochum which was a large hospital with a great deal of accident surgery, accident cases. From there I went upon completion of my study and temporarily during my year of practice I also practiced at Chemnitz and at a General Hospital in Weimar. And from the beginning of 1929 I became assistant doctor at the surgeon's department at Bochum. Work in that hospital had the particular characteristic that the medical department was closely connected with the places of work where the actual accidents had occurred. As far as the coal mining industry is concerned, that and the steel industry, was leading there.

Q. Did you have any special training in any medical branch?

A. During this accident surgery, injuries to the skull played a particularly leading roll; surgery upon extremities; and, one important chapter, injuries to the spine. Perhaps I shall have to go into this more thoroughly. Every assistant doctor at the hospital at Bergmanns Heil found it his most difficult task having to take care of patients with injuries to the spine. These people were usually paralyzed in the lower organs of their bodies. And, they meant to us the greatest human demands. Every one of these patients knew there was no help for him, and that his fate during a period of weeks, months, or in exceptional cases, years, would be ended. There was a tremendo neuralgic pain, never leaving the patients a moment's peace, day or night. And, to all of us it was a great effort, again and again, having to visit these patients, having to step up to their beds, and having to say a few words of greetings, which practically were nothing other than just words. After a certain time, again and again, these patients would make the same request: "Doctor, give me an injection! I cannot stand it any more." I think that any description of this situation, however extensive it might be, would always fail to live up to reality. I did not intend, when I first went to Bochum, to remain there for good. I was intending to complete my training as a surgeon. During my period of studies I had already made contact with a man known not only in Germany, but beyond the borders of this country, a doctor named Albert Schweitzer. And, I intended, once trained as a surgeon, to assist him with his work as a doctor in Lambarene, French Kongo; when, in 1932, I was ready for the carrying out of this plan it was no longer possible since a request was made that I should serve in the French army, which probably would have meant having to adopt French citizenship.

Q. So you dropped the plan?

A. Yes, that was the reason why I abandoned that plan.

Q. So, one could say there was a national consideration?

A. Yes.

Q. Then, what did you do after your time at Bochum?

A. There was one particular interruption during the time I spent at Bochum. In 1933, more by accident than by design, I was present when a car accident occurred, during which the Fuehrer's Adjutant, Wilhelm Brueckner, suffered a severe fracture of the skull. And, a niece of Hitler's was travelling in the same car, and other passengers also being injured. At that time, I carried out immediate care on the persons, and certain surgical treatments, and by request of the Fuehrer, I spent six weeks in a small village hospital attending to Wilhelm Brueckner, as a doctor, and then in the autumn of 1933, I went back to Bochum. In 1934, in January, my chief at Bochum, Professor Magnus, was called to join the University Clinic at Berlin, meanwhile having been vacated by Professor Bior.

Q. You, yourself, were at Bochum. And, who became your chief then?

A. Professor Magnus went to Berlin, and I went to Berlin with him, and likewise, Professor Rostock to Berlin and again he became the first assistant to the chief; so that altogether I have been with him now for 19 years.

Q. And, then until the beginning of the war, you remained in Berlin; did you not?

A. I was in Berlin, yes, until the beginning of the war. There I worked at that clinic, where I was, first of all, the head of one station. And, beginning in 1936, I think, I took charge of the accident section, and the Polyklinik which I headed. The Polyklinik had a large intake of patients, amounting to approximately 18 to 20 or 21000 patients per annum passing through.

Q. What happened at the beginning of the war? Did the situation change at all?

A. I shall have to come back to that at a later time, showing which after 1934, I acted as Escort Physician to Hitler; which meant, that during the period of the war I had a special task, that of Inspector of the Armed Forces, attached to the Headquarters of the Fuehrer.

Q. Did that mean your complete separation from the clinic?

A. No; I did not separate from that Clinic. I tried everything I could to remain in contact. And, later on, when I became General Commissioner for Health and Sanitation, and even as Reich Commissioner, I had my office there. I was doing my work and directing it from that clinic.

Q. Which personalities in the medical field, had influence upon you in your medical profession?

A. If I am to give you the names of my teachers once again, passing through them quickly; then, first of all the Surgeon Lexter, von Moeller, Hiss, and the general psychiatrist, Hocher and Freiburg in Munich, were the decisive personalities in my medical training.

Q. Through having met these outstanding experts, did you ever find yourself drawing toward scientific activities?

A. No; in the first place I was interested in the clinical work, and as far as scientific work was concerned it was more or less a hobby with me.

Q. Did you work on any scientific things at all

A. Together with my chief, Prof. Magnus, I did carry out a certain amount of work, writing works about surgery on skulls, injuries of the spine; and there were certain special examinations which I carried out during inspections of choice. But it would be wrong to say that I had played any leading part at all in any scientific field.

Q. Did you carry out any laboratory work?

A. Apart from the fact that temporarily I was the head of the laboratory at the clinic, I did not carry out any laboratory work. Maybe I might add at this point that approximately in 1936 I spent some extra time working in laboratories due to the fact that an event occurred outside which influenced the situation. May I refer you to the testimony given here recently by Prof. Leibbrand, which might mean that it is important that I should go in to detail. There was a man called Von Brehmer who had approached, stating that he had found the cause of cancer. Through these channels he went to Goering with this story; and Goering took this tremendous discovery to Hitler, who in turn instructed me to discuss the affair with Herr Von Brehmer. In order to give the matter a scientific and expert background, we obtained my chief's permission, the permission of Prof. Magnus, to ask Brehmer to come to Berlin, where investigations carried out on his instructions produced no unanimous results, no clear-cut results, so that the idea had been and could be turned down by experts, meaning that a cause or one of the causes of cancer appeared not to have been found. Then the results from Brehmer were taken under the wing of Mr. Streicher right here in Nurnberg. Streicher established a patients' department, to which he gave the name Paracelsus Institute; and there one can well say in the most irresponsible manner examinations and observations were carried out. The result, however, was

that the seriousness of these experiments of Brehmer's was pointed out to Hitler, this time by Streicher.

Therefore, once again I was instructed to carry out certain observations, this time here in Nurnberg, and to confirm if possible what Von Brehmoff had already stated. In order to be quite sure of those observations, I brought along with me a photographer; and the findings on the cancer patients were photographed and recorded over periods of weeks. The result was absolutely negative. Although this was so, Streicher used this opportunity to make public statements without criticism, without responsible dealing with these possibilities for treatment produced by Brehmer. He was not even ashamed to publish photographs which I had made. For instance, in the case of one scientific cancerous infection of the breast of a woman, a photograph was taken in order to check the diseased one; but a healthy one was published in the reverse, saying that this was the cured previously diseased breast.

In that connection, of course, I had a very serious arguments with Streicher, which, as far as I was concerned, had two practical results. Firstly, the president of the police suggested to me that if possible I should avoid coming to Nurnberg, where on the other hand I received the information from the Fuehrer never to go to Nurnberg without him, in other words only when accompanied by him. This I carried out.

In order to demonstrate how in fact this charlatan business was actually progressing in Germany after 1933, then after Brehmer had discontinued his work in Nurnberg, on the strength of the documentary evidence Himmler first of all took him under his wing I was still receiving photographs in connection with which Himmler himself was making statements in relation to the investigation of fact as to whether the person was either suffering from cancer or might have become a cancer patient;

Q. Witness, did you have any additional surgical training?

A. I have told you that in the main my training as adjutant surgeon took place mostly in Bochum. I had further surgical training in Berlin, which, as years went on, was supplemented by the fact that I was working under Geheimrat Reichel where a special method of operating on stomachs was being used. In addition to that, with an order to acquire additional knowledge of stomach surgery, I spent several months at the University Clinic of Bonn. In order also to collect experience with breast surgery, I spent several months with Sauerbruch.

Q. Just before that you had mentioned those special tasks with reference to the Brehmer-Streicher matter. Did you have any other special tasks given to you which actually fell outside your normal scene of activity?

A. The work in Berlin had the difficulties which the construction of the task from the point of view of space brought with it. It meant to us at the clinic in Berlin the task of having to plan new buildings. In 1937 I received the task at the time in collaboration with Speer, the plenipotentiary of the reconstruction of the capital, and the special task of architects of developing plans first of all only for a surgical clinic and later for the entire university clinic at Berlin. This was work which extended over a period of years and which led to the result that during the first years of the war there was a final plan concluded. I shall give you the cost of the building so as to give you an idea about the matter. It amounted to approximately two hundred eighty million. The buildings which reached the height of the radio tower in Berlin and which could house all the students in addition to four thousand patients belonging to the various clinics, all the pre-clinical institutes were there, the pathological and anatomy institutes, and so on. Arising from this connection

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were building plans. I carried out the planning for the evacuation hospitals during the war which then received the special name of special evacuation hospitals.

Q. We shall come back to that matter later. During the planning of these works in Berlin for the Clinic, did you have any other medical assistance?

A. It was necessary to carry through this building program and it was necessary to have assisting physicians. My closest collaborator was Prof. Rostock. At that time Professor Rostock had become my clinical chief since Professor Magnus in the meantime had transferred to Munich. I asked Professor Rostock to give me his assistance mainly because of his organization of talent. In addition, I knew that because of the personal friendship which existed between us there could be found a special reliability. Here perhaps I may point out the personality of Professor Rostock. Every person who had any dealings with him will at first say, and the expression used in Germany would be that Rostock is a good man, and as our common teacher Magnus he had a consciously human attitude towards patients and then this attitude can be found in Rostock, and it originates from a born friendliness. With reference to the treatment of his subordinates in the clinics and the nurses or assistants, it is a fact that they, as well as the patients, respected him. He is medically absolutely reliable, and all of his activities were devoted to the benefit of the patient, and he was superb teacher for the students. The Prosecution has already pointed out the respect which has to be granted to him as a scientist and rightly so. How magnificent it is may be seen from the fact that the faculty of Berlin nominated as their Dean and with that they showed very clearly and with that he became very clearly representative of all the German medical faculties.

Q. Witness, I shall now turn to your political career. When did you join the NSDAP?

A. I became a member of the National Socialist party in January 1932.

Q. And what was the reason which lead you to it?

A. For me a decisive reason was the conception of the social question. At that time I was an assistant in the Ruhr territory and every person who records these years will imagine the hopeless situation

which existed at that time. There was unemployment and suffering, a very unclear prospect of the future. There was unreliability. All of this in a country of this red earth demanded something from us. From the start, because of family acquaintances,

I was close to the circles of Friedrich Naumann, and arising from this connection the decision to become a member of the Party was not very difficult.

Q Did you belong to any other Medical association?

A I became a member of the National Socialist League of Physicians, but I came into no closer connection with them. Apart from this membership, I did not attend a single meeting and it may have been an oversight on my part that I remained a member. I then joined the League of Physicians with a condition which I put in writing, that I would not exercise any active duty in any SS or SA formation. I thought it was necessary at the time, so that as a physician I would not be considered a politician by my patients who followed various political lines.

Q So then you exercised no activity in that association?

A No.

Q Well how did you come into contact with the Fuehrer in spite of that?

A I formerly pointed out the motor car accident of Brueckner and it was in 1934 when the first meeting of Hitler and Mussolini took place in Venice, and Hitler himself needed an escort physician then because there was the possibility of an attempted assassination. Remembering this motor car accident his Adjutant Brueckner telephoned me in Berlin and ordered me to come to Munich and I flew with him to Venice, and this event really was the beginning of my subsequent function as the escort physician of Hitler. I should like to point out the differentiation which I made between the personal physician and escort physician. The personal physician is perhaps a physician who occasionally is called in cases of illness. In my case as an escort physician I had to be in readiness, at his disposal, and whenever Hitler had to leave Berlin it was my duty to accompany him. That, of course, entailed, at any rate after the beginning of the war, that I needed two representatives for this function, one was in Berlin and the other in Munich. Otherwise, I could not have remained in Berlin at all.

Q Were you at that time already a member of the SS?

A In 1933 I was a member of the SA, and only after the visit to Venice, I was transferred to the SS. This was for merely external reasons. Then all persons accompanying Hitler wore SS uniforms and I had civilian clothing and in order to present a uniform picture he wanted me to wear a uniform.

Q. Where did you serve your military duties?

A. I served with the Army - it was in 1935 - at first with the Infantry Regiment. It was in Blankenburg/Harz and later after I became medical officer in the Army I served in hospitals where I served my yearly duties. I have been assigned to Berlin as a surgeon.

Q. And what activities did you exercise during the War?

A. By order of the Army Inspectorate I was assigned to the Fuehrer's Headquarters in the year of 1940 and also, because of former reasons, I was transferred to the Waffen-SS by the general SS without holding a command and also without leading a unit. Since I was still serving in the Army and Exercise thereto my promotions were approximately parallel. Usually I was first promoted by the Army. My last rank in 1943 was Generalarzt, and in accordance with that the SS promoted me.

Q. Was such a combination of activities, both in the SS and in the Army, something customary?

A. With the exception of my own case I know no other.

Q. How was your relationship to Himmler? Did you belong to his closer circle?

A. I had no personal relationship to Himmler. I pointed out before that I really had serious medical differences with him - von Brehmer and Streicher. And also during the War when a closer contact might have taken place there was certain personal tension of the circle around Hitler and the circle around Himmler.

Q. Were you always officially asked to attend Gruppenfuehrer discussions held by Himmler?

A. As I said, I had no relationship to Himmler. This also extended to the official field. I took part in none of those so-called Gruppenfuehrer or SS leaders' discussions. I was never invited to attend any one of them. Even professionally there was no contact between us. Sometimes it even went so far, and documents will probably confirm, that, that Himmler consciously tried to remove me from his circle and his path and sometimes even pronounced prohibition to get into any contact with me.

Q. How was contact of the staff belonging to Hitler and Himmler?
Was there a close cooperation?

A. They did not collaborate, they hardly saw one another, and even from the point of view of location were very far apart. At several occasions the word "Fuehrer Hauptquartier" is used here and one may gain the impression that it was a little camp where everyone was together. That wasn't the case at all. Himmler's Headquarters or the Institute of the OKW, the Institute of the Wehrmacht Operation Staff and the real Fuehrer Headquarters - and that was the only one that could bear that name - were very far apart, sometimes 20 to 30 kilometers apart and numbered a large amount of personnel each. I remember that at one time when we had to move from the Ukraine to another territory we had to transport something like 18,000 human beings.

Q. And how did these two staffs collaborate personally? Did you have any closer relation with Reichsarzt SS Grawitz?

A. I had no personal contact with Grawitz. He was a typical subordinate of Himmler, judging from general utterances, one who was completely devoted and subordinate. During the last part of the War in 1945 I had a few discussions with him but not in the capacity as Reichsarzt SS but as President of the Red-Cross, since at that time together with the Chief of the Army Medical Service I tried to designate certain cities as hospital cities in order to keep them away from the War in that manner, and for this purpose we needed Grawitz in order to use his connection with the German Red Cross and thereby establish connections with the International Red Cross in Geneva.

Q. Then what were your political ties in your office?

A. In any office from a political point of view I was left completely along up to the autumn of 1944, and by that I mean my office which I held over since 1942 after I became General Commissioner for Health and Medical Services, not a single one of my co-workers, neither in my office Planning and Economy or Science and Research, was a member of the SS, not even a member of the general SS. In the Department of Planning and

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Economy, even up to November 1944, I had two Jewish workers out of ten secretaries I had, and who came from industry, together with their section chief. I chose my collaborators only going by their

professional knowledge - everything else did not matter to me.

Q. Did you then reject the SS on principle?

A. No. I never saw in the SS a gathering of men who had only met in these units a lead through. And if I think of the young officers who were members of the Waffen SS who worked in Hitler's Headquarters as Ordnance Officers, then I think of these four men, three have died, and the fourth was heavily wounded. I, whenever I wear the uniform, always wore it with an idea to have a special moral obligation and I did not wear it without pride.

Q. Witness, I now come to another subject, something which we have already touched upon, namely, those special hospital institutes we have already discussed, specific task of hospital planning. Will you shortly define your attitude to that?

A. I pointed out that arising from the planning of the Berlin University Institute I had a special study of hospital buildings of the entire Germany. Before the beginning of the War I made many journeys abroad with an architect and I inspected hospital buildings and studied their organizational frame work and that needed certain knowledge of the situation of hospitals in Germany itself. Before the War, and I am just giving you the round figures, we had approximately 550 to 600,000 hospital bed in Germany. And you have to take away approximately 250,000 and 250,000 belonged to General Hospitals, that is to say, general hospitals, surgical clinics, etc. The same amount, that is approximately 250,000 beds up to approximately 300,000 comprised the mental institutes. Beds for tuberculosis illnesses. This was a bad situation which probably now has become much worse. There were certain centers of gravity in this hospital concern which were mainly at points where industry was concentrated, that is, in the Ruhr territory and central Germany. In consequence there was a lack of hospital space in these territories and it was especially serious there. In the year 1941 the first English air raid took place on the town of Emden. At that time the entire hospital was destroyed. Dr. Todt who was carrying out the repair work and the rebuilding as far as possible and who

was supposed to be in charge of that work came to the Fuehrer's Headquarters with a demand that a new hospital be built in Baden. On the same day when making this demand I was assigned by the Headquarters to designate evacuation hospitals for other cities which were in danger. These plans, which in the beginning were comparatively small, extended in the subsequent years, that is up to 1942-43, and from this whole question there developed even later after Todt had died.

Then, in connection with Speer and his department, Building, there developed the task of the building of the special Hospital Institution Action Brandt. Up to the year of 1944 approximately 30 institutions which at that time had operated, were being used. In every case there were complete hospitals with 500 beds each which were built according to a system of villas and were located approximately 20 kilometers outside the limits of the city in danger. Starting from the year of 1943, these hospitals had to accept mainly such patients whose treatment would probably last for some considerable time, in order to use the space inside these cities in danger for patients where illness was only anticipated for a short time.

In this connection I should like to point out that it was necessary to start a special transport system of the sick which was intended for these hospital institutions which were all under my administration. These were busses and trucks which were rebuilt in accordance with its purpose and which had on their outside the designation Hospital Institution Action Brandt. There wasn't one of our destroyed cities where these busses were not used -- these busses for the sick -- and it frequently occurred that they not only collected sick people and injured people who were effected by the last raid, but they also had to take care of evacuating other people. I assume that this was submitted here, I think it was in the form of an affidavit by Weser, where the question of general sick transportation came up.

Q. Witness, this was a special assignment belonging to the building system which you received for the institution of these special hospitals. Did you administrate this work from the Fuehrer Headquarters and did this take up much of your time?

A. I exercised this activity, which at first was a planning activity, certainly up until the year of 1942, and I directed it from the Fuehrer Headquarters since I was tied to that Headquarters. It was only in the year of 1942, in the summer, when I took over the Office of the Commissioner General, that I received a representative so that I was in a position to move about more freely. In addition, the situation was that the Fuehrer himself currently wanted to be informed about these building operations. It was a hobby on his part to build and the building of hospitals and bunkers was

really a thing which played an essential role during the last years of the war.

Q. Did these assignments extend to other fields?

A. Later, certain connections began with the entire air raid precaution medical program, which really had more to do with the defense against poison gas, but still established a certain connection with hospitals.

Q. Was this poison gas decree in any relation to the assignment to the hospitals?

A. No.

Q. And that took place in the year of 1943 - 1944 and that was the situation as it was then. At that time you had already become the Reich Commissioner General for Health and Medical Services?

A. I became Reich Commissioner for Health and Medical Services through a Fuehrer Decree of July 1942.

THE PRESIDENT: At this time the Tribunal will recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. McHANEY: If the Tribunal please, I am advised that the witness, Karl Brandt, is testifying from notes and other papers which he had before him. I object to this and if the court over-rules this objection, I will ask that the Prosecution be furnished with copies of these notes and translations thereof.

DR. SERVATIUS: Mr. President, in the trial before the International Military Tribunal, it was permitted for the defendant to testify on the witness stand and to take notes with him in order to simplify the proceedings in view of the extensive material, otherwise, the examination will be carried out, but it may take a little longer.

THE PRESIDENT: The objection of the Prosecution is over-ruled.

DIRECT EXAMINATION - Resumed.

BY DR. SERVATIUS:

Q. Witness, now I come to your position as Commissioner General for Medicine and Health matters. When did you receive this commission?

A. By a decree of July, 1942, I was assigned to this office. It was called the General Commissioner for health and medical matters.

Q. I shall hand you a copy of this decree and please comment on it. It is Document No. 080 and it is in Document Book No. 1. Will you please first explain how this decree came to be issued?

A. This decree was issued on the basis of a practical demand after the winter battle in the East in the winter of 1941-1942 and a report came through Dr. Todt and various other agencies to the Fuehrer. I was sent along the road from Smolensk toward Moscow because very many battle wounded were said to be there who could not be taken care of. The information was inaccurate and in part entirely incredible. I went to the area of Wiasmar and there at the railroad station in the small village, the picture was about as follows: There were ten big freight trains, closed freight cars all filled with wounded. The temperature was between 35 and 40 degrees celsius below zero. Some of the bandages and dressings of the

wounded were actually frozen to the floor of the cars. The locomotives were frozen and the boilers broken. The medical personnel were trying to help the wounded as much as they could, but, of course, this was practically impossible. In the district, there were about 10,000 wounded. At the railroad station, there were two medical officers with a minimum of medical supplies and these two officers could hardly stay in the town itself. There were small buildings, which had been arranged to receive the sick, but they were over crowded and the situation for the wounded was similar. Wehrmacht agencies, with which I established contact, attempted to ascribe these conditions to a failure of the medical command. The same attitude was taken within the Wehrmacht operational staff. Actually in the medical service, the medical services were to be given the responsibility for the failure of the strategic command and especially for the inadequate supplies of winter clothing. I went on and followed the river toward Moscow until I came to the bandaging places and there I learned from the replacements that there were inefficiencies here.

About 30 kilometers from Moscow at a small station by the name of Moschoisk freight card had piled up with Soda water, all frozen and completely unnecessary. The most urgently needed medical supplies were lacking. Discussions with the competent medical agencies in this area, in the Central sector, showed the impossibility of getting aid from the Army. About 10 kilometers away from the station of Wiasmar, which I mentioned before, there was an airfield. At this Airfield there was a medical officer who had nothing to do, but he had orders not to leave the airfield. After three days I returned to headquarters. I described the situation as I had found it. The only possibility of getting aid since the Army would not help was for the other branches of the Wehrmacht, primarily the Luftwaffe and the Navy to come to the aid of the Army. At that time, in January 1942, this was possible only by special and precise order from Hitler himself. In this way it was possible to arrange that within 24 hours, with the aid and support of our own couriers to the Fuehrer Headquarters, that 45 medical officers were summoned to this area, and the nearby stations of the Navy and the Luftwaffe, probably the Koenigsberg people sent the necessary supplies. From that time on the question of unified medical corps went under unified command in the Wehrmacht and was not dropped, but nevertheless it lasted 7 or 8 months, until most of the difficulties of Jurisdiction were solved, and this decree of 28 July 1942 was issued. The essential point is the reference that an agency of Chief of Wehrmacht Medical Service was to be established, and on the civil side the Reich Health Leader and Secretary in the Ministry of Interior was to be given the responsibility, and I myself was made responsible for a special task and to coordinate the needs of the Wehrmacht and the Civilian Sector. For me personally there was still another demand, that I was to have a representative at headquarters so that I was not obliged to be there as much as before. The decree

was issued because of the needs of the front. For the Wehrmacht head there were a few basic shortcomings. An attempt was made to investigate this case in 1944. The new chief of the Wehrmacht Medical, Generaloberstabsarzt Handloser, who had previously been Army physician and Army medical Professor, retained this position. The organization as set up was not adjusted properly to the Luftwaffe and the Navy, because the Army itself was not represented, but that the Chief in charge of all three branches was of the Army.

Q. Now, would you please look at the decree itself and comment on those points where you yourself are named, that is "3" and "4" of the decree?

A. "3" says I empower for special tasks and negotiations, for special hospital supplies, and so forth, "I empower Prof. Dr. Karl Brandt, subordinate only to me personally and receiving his instructions directly from me, to carry out special tasks and negotiations to readjust the requirements for doctors, hospitals, medical supplies, etc. between the military and the civilian sectors of the health and Medical Services."

Point "4" says, "That as Commissioner General I am to be informed of all happenings in the Military and Civilian Sector." The practice under this decree meant difficulties for me too.

JUDGE SEHRING: Just a minute, please, Witness.

Dr. Servatius, in the translation which we have here, which is apparently the official document filed with the Secretary General, this decree of 28 July 1942.

DR. SERVATIUS: Yes.

JUDGE SEHRING: It takes care of Paragraphs 1, 2, 3 and 5. "4" apparently is omitted.

DR. SERVATIUS: There is no "5" on the decree. It must be a mistake in typing. No. 4 reads, "My plenipotentiary for Health and Medical Service."

THE WITNESS: ... I had direct contact with the Luftwaffe and the Navy and a Medical Officer of the Luftwaffe was assigned to him.

MR. McHANEY: That had better be repeated, the English text didn't come through for six or eight sentences. I think it would be best if they repeated that for the record.

BY DR. SERVATIUS: Will you please go back? The English translation did not come through, - and comment on points "3" and "4" of the decree?

A. Section 3 says that I am empowered for special tasks and negotiations to adjust the requirements for doctors, hospital and medical supplies between military and civilian sectors, and the Health and Medical Services, and that I am subordinate only to the undersigned, that is to Hitler personally, and receive instructions directly from him. Section 4 says that I am to be kept informed about fundamental events in the civilian service of the Wehrmacht and Medical Service. It says he is authorized to intervene in a responsible manner.

Q. Then the purpose of the decree was to guarantee this cooperation?

A. The purpose of the decree, from my point of view, was to adjust the needs of the Wehrmacht and needs of the Civilian Health Service to carry on the negotiations, and in addition was from time to time given special tasks. Those special tasks, of course, resulted from direct instructions from Hitler.

Q. Then you did not get any general authority, but special instructions in each case?

A. In the course of the next two years I estimate 15 to 20 special decrees were signed by Hitler for the individual tasks. It may be one or another of them can be submitted as a document.

Q. Can you mention any such special assignment?

A. In the beginning I had to establish hospital bases. Such

a decree was formulated very clearly and signed by Hitler. But the one department was important, -- I believe I have to tell this, that when this decree was issued when Hitler signed it the SS was not included. Apparently Himmler had already talked to Hitler about it. Since there were basic differences between Himmler and me in our impressions of the duties of a medical officer, and we had quarreled about it on one occasion, I was of the opinion the medical officer is first a doctor and secondly an officer, while Himmler was of the opinion he is first and officer and secondly a doctor. This was made evident by the fact that medical officers of the Waffen SS, not like to Army, Navy and Luftwaffe, and so forth, wore the insignia on their shoulders and could not be distinguished from a regular officer.

Q. Now, in number 1, paragraph 3, the Waffen SS is mentioned. Will you please explain the meaning of this paragraph? It says; "For the purpose of coordinated treatment of these problems a medical officer of the Navy and a medical officer of the Luftwaffe will be assigned to work under him, the latter in the capacity of chief of staff." Now, there follows the sentence: Fundamental problems pertaining to the medical service of the Waffen SS will be worked out in agreement with the medical inspectorate of the Waffen SS."

A. I began to point out before that there was a medical officer of the Luftwaffe and one of the Navy as liaison officers to the newly created chief of the Wehrmacht medical service, but that although the Waffen SS, as long as it was assigned to Wehrmacht units, was under the control of the Wehrmacht medical service, the Waffen SS did not send an officer to Handloser. And later when a request to that effect was made to get closer contact, it was refused.

This is what I just said with reference to myself; that the SS, the General SS as well as the Waffen SS, were outside this decree for the medical and health service. This is the standard decree. The later decrees for the General Commissioner or the Reich Commissioner were based on this one and it was never repealed.

Q. Now will you please put this decree to one side? Now, did you built up a big agency for these duties?

A. No, In Berlin I had a sort of post mail office in the Reich Chancellery from where we had courier connections and documents were brought to me constantly. The mail which we received was first of a quite general nature, but after a short time, six or eight weeks, it consisted primarily of inquiries and demands from industry. These requests were quite outside of the task as originally intended.

It had been intended that I was to coordinate the existing installations of the medical service.

Q. What was the significance of the fact that industry approached you with many inquiries and requests and opened up problems?

A. I obtained insight into the production situation in '42 and '43, and on the basis of the information which I received I saw that unless a unified planned economy was established the production of medical supplies would be crippled completely in '43. This was because within the production agencies themselves there was no unified leadership. There were three agencies which conflicted with each other; First, the Ministry of Economics, the actual production agency; then, under Goering, the Four-Year Plan; and finally, the Ministry for Armaments and War Production.

Aside from the fact that the limitations of the jurisdiction of these three offices were not clear the organization within these agencies was based on the raw material situation and not adjusted to the demand. The Ministry of Economics and the Speer Ministry had created special committees and working committees, specialist groups which took care of the materials. There was no central agency for medical supplies; for example, our surgical materials, our catgut, was in charge of a group who took care of musical instruments. This group for musical instruments was interested only in getting strings for violins and so forth, but they did not care whether we had surgical catgut or not.

Q. Witness, these demands from industry opened up a new field then. Did that lead to Decree Number 2?

A. Yes, this led to Decree Number 2.

Q. I shall show you this decree. It is Document NO-61, NO-051, also in Document Book 1, page 14, in the English version.

(Document handed to witness).

A. Decree 2 of the 5th of September 1943 was to the effect that I was authorized to take charge -- to coordinate and direct centrally the problems and activities of the entire medical and health science and research as well as to the organizational institutions concerned with the manufacture and distribution of medical materials.

Q. Witness, can you tell me what your collaboration with the civilian and Wehrmacht sectors was?

A. I must distinguish between two things; first, the necessity for me, from the small office of three or four persons which I had at that time, to develop two offices, one dealing with materials, planning and economics, and one with the scientific matters, the office for science and research.

These two offices, together with me, had to coordinate first the material needs between the Wehrmacht and civilian sector. Our position

was that of a differential. Through this second decree the first decree was not repealed. It was outside the authority of material needs as well as science. I did not establish any connection with the SS, and until the fall of 1944 when there was a visit by Genzken, the SS did not attempt any coordination.

My two offices, planning and economics, and science and research, Professor Rostock was in charge of the latter, had assignments which more or less complemented each other. If I referred to the production difficulties before, I did so in order to describe the necessity and the need for that production. The agreement with the three competent production agencies was that I was the only responsible representative of the needs of the Wehrmacht and civilian sector. A plan of demands for civilian supply had to be set up first.

Until 1943 in spite of the war conditions this plan had not been completed. The Ministry of the Interior had no idea of what these demands were. With the aid and support of Wehrmacht agencies and industrial agencies, it was finally drawn up. This plan of civilian demands was worked out in detail and coordinated with the central plan of the Wehrmacht which had been worked out in the meantime. The adjusted plan, coordinated plan between Wehrmacht and civilian was discussed with the production agencies again, and this was the first task of my office for science and research.

Production; that is, industry, attempted to prescribe what we could get. It was Rostock's task to establish what was necessary and not what was offered us, in a very difficult procedure. For example, our pharmaceutical preparations which, up to then, had been produced in numbers of about 35,000 different preparations; they were divided into groups reduced to 12,000 and 6,000. And finally, a program was set up in which only about 40 absolutely essential preparations were contained. The same was true of x-ray machines, instruments, all pieces of equipment of a medical nature. The distribution of the supplies within the Wehrmacht was within the Wehrmacht and within the civilian health service, their own organizations, and I had nothing to do with that.

Q Then the office for science and research gave research assignments itself as they have been discussed here?

A The office for science and research did not give any research assignments in that precise form. It supported research.

It must be considered that in 1943 and '44 in general there were other demands on the medical and health service, not only in thwarting scientific activity, but the Ministry of the Interior and the Propaganda Ministry, the Party Chancellery and others tried to have studies, particularly medical studies, stopped. In 1943 a decree was drawn up and signed that all the universities were to be closed. At that time I tried to have this repealed and as far as the medical faculties were concerned, I succeeded.

The Office for Science and Research under Rostock received from me the assignment to try everything to prevent the interruption of medical studies which was planned in 1944. In individual assignments which Rostock supported -- I could mention the attempt to cultivate tissue cultures -- the question was brought up of finding an agar substitute which is necessary in arbitrary work. He supported the work with the electronics microscope and various other things which he himself can describe better than I.

I should only like to say one thing, first of all, that the work which Rostock did, he did on my behalf on my orders, and I myself, if I claimed successes formerly, continued to bear the responsibility for everything alone.

Q. You spoke of attacks on medical studies. What was the position of medical science at that time in general? Please comment briefly and consider what the expert Professor Leibbrand has testified here.

A. Mr. Leibbrand described the situation quite correctly in many points. I do not want to go very far back. The situation in 1933 was that with the beginning of the influence of politics on everything, an attempt was made to have politics prevail in universities as well. The National Socialist League of Students was clear of all these units and organizations which were formed. That led to a false conclusion. It was believed that if this was achieved, science itself would be furthered, everything that was active in any way, all the active forces available where an attempt was made to direct them into politics. It was not realized that science itself, scientific research and work essentially has nothing to do with politics. A number of men who obtained influence were half educated.

The resulting inferiority feeling they tried to compensate for by trying to push the scientist, the real scientist, aside as unequal to them, and on the other side helped the dilettante. I refer to the description of von Brehmer which I gave this morning.

Now when the war had begun the question of science was overlooked entirely. Deferments for the universities had not been given so that teachers were suddenly drafted, and the training of the students was distorted in some cases. Considerations of basic research had been overlooked, and the idea of research on the basis of expediency prevailed. The lack of interest of the universities themselves led in 1943 to the decision to close the universities altogether. There were a number of doctors with whom I was in contact at that time who exerted their influence to have the universities reopened and continued, the dean of the University of Bonn, for instance Schulermann, and one of Muenster, Siegmund, and Sauerbruch, and, of course, Rostock who was dean of the Berlin faculty and exerted a certain influence in this respect. After that there was an enormous number of little annoying difficulties. Everyone was suddenly interested in these questions of universities, and everyone had something to do with them. The High Commander of the Wehrmacht was interested in it because of deferments. Sauckel as plenipotentiary for Labor Commitment wanted to have students given some sort of labor duty. Contingents for establishing institutions, etc., were in charge of the Ministry of Economics. The Speer Ministry refused to take charge of them. If special papers were to be printed, the Reich Press Chamber opposed it, and in spite of all that there was no person who was really in charge of the universities. I say this only to

show that from my Office of Science and Research that this was the primary decisive task, and I attempted to keep physicians free of politics as far as possible. Without knowing it directly, I found support in the efforts of Dr. Blome essentially directed against Dr. Conti. Professor Leibbrand has already described Conti. He was a political exponent and called himself that, and saw the task of the health leadership which he represented entirely from the political point of view.

That the training of the young doctor, the student, suffered especially during the war in Germany I don't believe I need to emphasize especially. Everyone knows how difficult training opportunities were. Nevertheless, a great deal was certainly done for research and actual medical treatment of the doctor at home, and before 1939 the medical officers were on the whole outstanding. There were some scientific successes, the development of sulfonamides in the surgical field because that was the closest to me, the bone treatment according to Fuetscher and the further results of heart surgery are significant.

Q: Witness, I come to a different subject. You were given an assignment called by the Prosecution Chemical Warfare Agent Decree from the first of March 1944. We do not have this Decree itself, but you wrote a letter about it to Himmler, a copy of which is here. It is Document NO-012. That is also in Volume I of the document book. I am not certain where it is in the document book. It is a very brief letter. I shall read it so that the Court may take notice of it.

"Berlin, 8 March 1944. The General Commissioner of the Fuehrer for Medical and Health Service. Top Secret. To the Reichsfuehrer SS and Reich Minister of the Interior, Berlin. Reichsfuehrer: Enclosed you will find the photostatic copy of an order from the Fuehrer which is to be distributed only to a very limited number of persons. On behalf of the Reich Marshal I ask you only to inform the absolutely essential and leading personalities in your field. I will be grateful if you will ask these gentlemen to get in touch with me" -- then there follows the telephone number -- "so that I may be in a position to settle this matter quickly because of its great emergency. Heil Hitler! Karl Brandt."

Will you please explain this letter? What was the meaning of the urgency and the special secrecy? Witness, will you please pause before you answer? The interpreter can't follow otherwise.

THE PRESIDENT: Counsel, I understood you to say that this document was already in evidence.

DR. SERVATIUS: I do not know the number in the English Document B k, so for the other document I will look up the page numbers during the recess.

THE PRESIDENT: Can you inform me the number of the Exhibit?

DR. SERVATIUS: I will have to find that out. I turned over a list yesterday to Lt. Garrett of the Information Center -- this morning, not yesterday.

Q. Witness, will you please explain this letter?

A. First I should like to point out that the telephone number which sounds somewhat mysterious was the telephone number of the Reich Chancellery extension 183 was my room in the clinic in Ziegelstrasse.

The order which is mentioned there, which was a decree dated 1 March 1944, was merely a production method of equipment against Chemical Warfare and had the following history: When, in the Fall of 1943 air raids on Germany were intensified and there were certain rumors which caused the fear that there might be gas attacks, Chemical Warfare and various agencies obtained gas masks. Since my office, Plans and Economics, was working on a general medical supply, the Red Cross which was one of our customers, and the HSV, had the impression that I might be in charge of gas masks too. I got two inquiries and requests for delivery for about 100,000 masks. As I had nothing to do with these I sent them to the competent office in the Speers Ministry. After about four months, at the beginning of 1944, I received the same requests again. I took them, myself, to the head of the Armament Delivery Office; his name was Doctor Schießer. I learned from him that he could not deliver the 100,000 gas masks that were asked for because in the previous year the increase in production of such apparatus had not taken place, but production had actually been reduced. Mr. Schießer himself -- this was somewhat embarrassing and unpleasant to Mr. Schießer because in the meantime confidential agents had brought the news that the Americans had shipped special equipment for that purpose, which brought gas to England; and, that gas from the former African Theater of War was being transferred to Italy. Under this situation, Mr. Schießer called a conference about the end of February, and advised me at this conference that all industry and development who had anything to do with this matter participated. The result was that the supply of Chemical Warfare defensive apparatus was disastrous in view of this situation. Within the Wehrmacht, within the Russian area alone, there were about 10,000,000 masks, with two to three times as many filters which had been abandoned there. This was about two-thirds of the total production since 1933. The Airraid Warden

Service had about twenty percent of its needs. And, for kinder gas masks there was about seven or eight percent of the needs available. The production of chlorium calcate was adequate for making it safe for the population of one large city after one large raid. Mr. Schieber asked me to inform the competent agencies, which he could not reach directly, about the result of this discussion. Since I went to the Fuehrer's Headquarters the same night and met Goering, who was really the man responsible for air raid precautions, I informed him. Goering had no idea of this situation at the time. For him it was of the same importance; for him, it meant that after one gas raid over Germany, the war would have been over. And, with this attitude and with the drawn-power of conviction, he informed the Fuehrer, himself.

On the next day, I was called to the joint conference and asked whether I would take the production of gas masks into my office for planning and economics. I took the point of view that such an assignment which might have further developments was not exactly commensurate with my office of Planning and Economics. I said that I, myself, might set up a parallel organization to collaborate with the competent agencies. And, that is how the decree came about, which in addition to gas masks gave me control of gas itself, gas production. This was necessary, because in view of the raw material situation, the previous counter-measures which we had produced could no longer be produced, so a substitute material had to be selected, and these had to be tested with our German gases. It was necessary to be informed about the effectiveness of these gases. On the whole, this assignment was addressed to the Ministry for Armament and War Production at the Production Agency, and to me in a sort of control capacity, for the execution of the program which was to be set up, and where the needs of the Wehrmacht and the needs of the

Civilian sector were to be adjusted and coordinated in so far as possible. Any assignment of our own scientific research was not given in easy sense.

When I returned to Berlin with this assignment and tried to learn about the situation as a whole, that is, to find out the competent agencies for the productions and distribution and use of this apparatus, I learned that there was no unified command. It was quite confused. Not only were the individual matters in different hands, but, for example, the Airraid Police had the right to take measures during an attack, but at the moment of all clear, their authority ceased, and the measures had to be considered and continued by the aviation Ministry. These things were impossible since a large number of organizations could be affected by the decree, which I did not know at that time. But, on the other hand, because of the rumors of Chemical Warfare, we had to take every precaution in these defense measures so that they would not become known and thus start new rumors.

I was forced to send all my letters as top secret or as top military secret. I turned to all leading men in Germany so that I would not get in contact with subordinate agencies who might think they had something to do with it, but who actually did not. So, I did not send these letters to the Reichsfuehrer SS Himmler, but to the Reichsministry of the Interior because in the Ministry of Interior were the decisive agencies of airraid precaution.

Q. Now, did this activity, on the basis of the decree, take that much of your time?

A. The work with this program was the decisive work for me in 1944. This program developed like an avalanche. One Reich agency and one specialized group, one after the other, joined in it. There was not only the very painful development of a new gas mask for the population, but at the end we had to build airraid shelters,

especially those in connection with Speer because of the ventilation argument; they were taken care of together with ventilation problems in the Navy. It was a program which affected perhaps more people than any other program of the Ministry for Armament and War Production. I did not establish any special agencies for this work. I worked by collaborating with the competent agencies which actually carried out the work for me.

DR. SERVATIUS: Mr. President, I am coming to another subject now.

THE PRESIDENT: The court will recess until 1330 hours.

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CORRECTED COPY

AFTERNOON SESSION.

(The hearing reconvened at 1330 hours, 3 February 1947.)

KARL BRANDT -- Resumed

DIRECT EXAMINATION -- (Continued)

BY DR. SERVATIUS:

Q. Witness, you were speaking about the emergency situation of air-raid precautionary measures. Were there other fields where a similar emergency prevailed in fields with which you were in contact?

A. As far as we are concerned with medical matters, I received an additional field of tasks in connection with the so-called Geilenberg program. This dealt with a merely industrial program for the rebuilding of a certain works. However, this rebuilding played a decisive role for me. I must say at first how the medical care was handled in industry during the years of the war. When pointing out certain matters about our medical science, I said that we tried to centralize everything and bring it into a certain direction; and I said that the result, of course, was different. It was similar in our civilian medical care. The reason was that the leadership itself within the civilian care was not unified at all, although it was always cleared from political points of view. Industrial work was cared for medically from three different sources which not only had no connection with one another but really quarreled with each other. At first it was the group of works physicians, an institution which was subordinated to the German labor front. That is Dr. Ley, who had really nothing to do with medical matters

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as such but who from his own initiative and from his medical organization instituted about fifteen thousand organizations. He had desired to push aside all read medical efforts in industry. These works physicians had to care for the supervision of the work with reference to hygienic institutions, prevention of accidents, et cetera; but they had already started to care for the actual medical treatment of the workers.

This actual medical treatment in factories was the task of the medical insurance companies, an office which was headed by Dr. Grothe, who was a collaborator of Dr. Conti, the Reich Health Leader whom Dr. Leibbrandt

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mentioned recently. A third institution was added, the medical confidential service, which also carried out expert opinions. This was an institution of the Reich Minister of Labor, in this case Dr. Delte, and to which other social institutions were added. These three organizations generally came to the worker in industry; and thus it occurred that in a real case of emergency the jurisdiction was left unclear.

Now, in the year of 1944, the first air-raid against the German ball bearing works started and shortly thereafter started against waterworks. Since as a result the entire war potential was endangered, the previously mentioned Geilenberg decree was issued by the competent minister and the Fuehrer. In this Geilenberg decree there was a clause which concerned itself with medical care for industrial workers. I was commissioned with the task of carrying that program through. I could only do that with the assistance and support which under the circumstances had to come from the framework of civilian and perhaps also the military sector since I had no organizational institution of my own.

A justified prerequisite for such a measure was the knowledge of the necessity and the size of the need which might arise. I have already indicated that I had quarreled partly with certain party organizations; and Dr. Ley in this case belonged to that, with reference to his work, medical institutions which were based on a purely political level, and Dr. Conti, who followed the same direction. When a few days later, after this decree was signed, the Leuna works near Merseburg were attacked, I immediately went there

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in order to look over the situation, I was not introduced to the works physician as soon as I arrived; but I was led to the works manager, who told me that I would not be able to speak to the physician. He explained that, owing to a circular after the issuing of the Geilenberg decree, Dr. Ley had ordered that his works physician should not deal with me and that people commissioned by me should not speak to him and give me any information.

I then succeeded in speaking to this works physician privately. I happened to find out that under certain circumstances assistance could be

brought from other surrounding works so that there was no additional military help necessary, that is, medical offices and material. But even for that I needed an insight into the situation as Dr. Conti gained it in medical insurance organizations. I established connection with Dr. Grothe by telephone and asked him to come to me with material about Louisa. He said that he would but did not come personally. He only sent a personal friend, who told me that Conti had forbidden him to speak to me. This meant that the order with which I was commissioned failed completely since I could not do anything in any matter at all.

I then spoke on the telephone to Dr. Conti, who confirmed the fact that he had forbidden his subordinates to speak to me. Consequently, I went to the headquarters of the Fuehrer and told him that I wanted to resign my offices since under these circumstances I was not in a position to perform the tasks which were put to me.

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Q. And how were these difficulties finally overcome?

A. After very violent quarrels during the course of which Martin Bormann who was continually in the headquarters played some part, it finally came to the hitherto mentioned decree, about the health and medical service, according to which I was appointed at the same time to Reich Commissioner, which gave me the possibility to deal with an agency concerned with the medical service and to give them directions in order to be able to execute my own part.

Q. I shall later come back to this first decree. You were speaking about difficulties in the civilian sector, was it similar with reference to the Wehrmacht?

A. Within the Wehrmacht these difficulties were perhaps not so obvious and open but they existed in practically the same way, and above all they were supported by the different concepts which existed about the tasks of the chief of the medical service, that is the leadership, and the medical service itself. In addition the question was never closed about the collaboration between the chief of the Wehrmacht medical service appointed in 1942, and the other medical chief belonging to the Luftwaffe and the Navy.

Q. Do you remember the directive for the Chief of the Wehrmacht Medical Service of the 7th of August, 1944, where you too received a special function?

A. This official directive was a special directive approved by the Fuehrer on the basis of a decree which he had signed. The decisive thing about it was that a differentiation was made between the Chief of the Wehrmacht Medical Service, the Army Physician and the Army Medical Inspector

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on the other side, who until that time were concentrated in the hands of Chief Handloser of the Army Medical Service.

DR. SERVATIUS: Mr. President, that is Document No. 227. I don't know whether the Tribunal has a copy of this document. I have not been able to find the page in the Document Book during the recess, but I now hear it is contained in Document Book No.1, and if the document is available I should like to hand it to the witness. (Document is handed to witness)

BY DR. SERVATIUS:

Q. Did you define this directive which you received on the basis of this

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decrees?

A. To indicate my own tasks I must point to the position which the new Chief of the Wehrmacht Medical Service received from the strength of this decree. That situation was that within the Wehrmacht the Fuehrer was the Supreme Commander. To him were subordinate, as the next executive agency, the Chief of the OKW, Field Marshal Keitel. The normal channels for the Chief of the Medical Service of the Armed Forces should have been that the Chief of the Medical Service of the Air Force, the Chief of the Medical Service of the Navy and also of the Army should have ended at the highest place, that is, in this case, at the Fuehrer's. That

That should have been the case through the Chief of the OKW, especially through Handloser, that is to say through Handloser as Chief of the Wehrmacht Medical Service. In actual fact, however, the Supreme Commander of the various armed forces circumvented the Chief of the OKW, Keitel, by taking the direct route to the Fuehrer, so that quite obviously Kietel was no active organ within the Wehrmacht leadership. Since Hitler himself was at the same time Supreme Commander of the Army, the newly created Army Physician and Army Medical Inspector were also therewith directly subordinated to Hitler, and the Chief of the Medical Services of the Armed Forces would again be circumvented naturally. In order to find a link for the Chief of the Medical Service of the Armed Forces in this decree of the 7 August, 1944, the directive states: That he, accepting his merely technical order, should lead the medical service according to the general outlines of the Fuehrer. These general outlines with which we are concerned were measures which were to be taken in accordance with the Decree No. 1, and which were to be adjusted to the civilian medical service. I give you two precise examples. Since there was a lack of medical equipment, especially because of the inroads of the wartime needs, the Wehrmacht had to put some material at the disposal of the public, and at the same time had to keep free a certain amount of hospital space for the civilian administration, but there are other points of view in this decree which are certainly important. There is the newly created army physician, army medical inspector. He was at that time appointed on the basis of the proposal and if I remember correctly without any influence of Generaloberstabsarzt Handloser, appointed by Himmler, who in the meantime had become the Supreme Commander of the Reserve Army, since the 20th of July. This was possible, since coinciding with the 20th of July, the Chief Adjutant of the Wehrmacht with Hitler was injured, and his successor, General Schmundt, was in close connection with Martin Bormann, and the General of the Waffen-SS, Fegeldein, who at the same time was a liaison man of Himmler to the Fuehrer. If it is of importance for the creation of that decree, I should like to point out one sentence with reference to my special view

of the decree, that is to say, the Chief of the Medical Service of the Wehrmacht, or through, so far as the special field is concerned, the Medical Service of the Wehrmacht, the organization within the framework of the Wehrmacht. This establishes clearly that the representation is really carried out by the Medical Chief himself. If such a unified solution was established with reference to the Wehrmacht, it would necessarily have been necessary to do the same thing on the civilian side, that is to say, the creation of the office called the Chief of the Civilian Medical Service. Preparations in accordance with that were actually made for this Chief of the Civilian Medical Service, and this is something where Martin Bormann was interested and it was provided that the health leadership would also have to be represented in the face of foreign powers.

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Q. Witness, these are the difficulties which lead to this so-called decree?

A. Yes.

Q. Who was the successor of Schmudt? Wasn't that General Burgdorf? Would you please correct yourself. You made a mistake before.

A. The successor of Schmudt was General Burgdorf.

DR. SERVATIUS: Mr. President, there is obviously a mistake of translation with reference to the Geilenberg Program and to water works, hydrating works is mentioned. This is something a little different than water works. These are really petrol works we are concerned with, the production of fuel from coal.

THE PRESIDENT: Concerning which document is that?

DR. SERVATIUS: It is not concerning a document. The witness had said that large difficulties had started in connection with the Geilenberg Program and he mentioned hydrierwerke which was translated "water works".

THE PRESIDENT: You referred to the translation here?

DR. SERVATIUS: I now come to Decree III. It is document NO----, in Document Book I, behind the first two decrees. I hand the document to you.

THE PRESIDENT: I will ask the translator if he recollects the phrase which it is contended was mis-translated.

MR. RAMLER: (translator): Yes, sir, I do.

THE PRESIDENT: You are confirmed that the translation really was incorrect and that counsel's suggestion is correct?

MR. RAMLER: As far as I know it is correct. I thought

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that the word itself could be translated as these works.
However, before consulting a dictionary I can't make a
definite statement as to what is the correct word.

THE PRESIDENT: You will investigate the matter?

MR. RAMLER: Yes, sir. We are concerned with merely
a technical expression.

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BY DR. SERVATIUS:

Q. Witness, would you define your attitude to that decree, especially in relation to former decrees I and II?

A. Through Decree III of the 15th of August 1944, where at the same time I was appointed the Reich Commissioner for Medical and Health Services, it can be said that the first and second decrees were not rescinded. This can be seen by the words "at the same time as well". It also says in the text "in this capacity this officer ranks as highest as Reichs authority." That is whenever I signed in my capacity as Commissioner for Medical and Health Services, not when I did it as Commissioner General. This justified me to take care of matters concerned with the Medical and Health Services and issue directives. On the strength of this decree it had at least formerly become superfluous that in the case of directives from the Fuehrer I did not have to re-issue another directive, but I could do it without anything else in writing. That was important with reference to the multitude of tasks that had in the meantime arisen. A big concrete example about the collaboration between me as General Commissioner and later Reich Commissioner with the Wehrmacht will explain that. I previously pointed out there the situation which at that time prevailed among our wounded. From this developed the concrete task of rebuilding of hospital bases in rear areas. A further task was collaboration with the air Force and with special Air Squadrons put at my disposal which came from the contingency of the Fuehrer Headquarters and which were necessary for the transport of wounded and the transportation of medical equipment to the front. In this manner thousands of heavily wound-

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ed persons were brought back. For this purpose I needed some plan in order to judge the needed material, and for this I needed the development of Troop Special Service in the detailing of medical educational possibilities, the

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commitment of transportation department of sick, of hospital trains going back to home cities, the collaboration with industry as I mentioned before with reference to the Geilenberg Decree and many other matters. The case is similar in Civilian Sectors. The difficulties which I had with Mr. Conti were just mentioned by me. Here we were concerned to keep physicians at home as far as possible and at the same time cover the needs of the front. The creation of evacuation hospitals, of hospital cities as they became necessary, especially toward the end of the War, which were to accept sick people from the various "gaus". Measures were necessary to take care of the heavily damaged areas of western Germany. If one tries to recall the situation as it prevailed at the time in one's memory, one knows that it was not possible to do anything by long ways of negotiation and to clarify matters it was necessary to act immediately and make decisions and to do everything which seemed could be attained and which seemed necessary. It happened to me in Hamburg that after the severe raids there a transportation department which belonged to the Police and consisted of thirty to forty sick cars could not be used since the President of the Police could not be reached and gave no order.

Q. From this new special task which you received one could only conclude you received new jurisdiction to carry through these tasks?

A. The possibility of execution was to be set up. I should have said it should have been set up because it only seemed like that when the decree was issued at the end of August 1944, at the time when Germany itself was an area of

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warfare.

Q. Witness, we shall come back to it. I should like to submit charts submitted by Prosecution with reference to the position which you held, your own plan, the plan signed by you, and I should like to illustrate your position using these charts to explain how far you were superior, whether you had orders or directives, and so on. Before I submit these charts I have a few technical corrections to make with reference to the translation. I am being informed about the following mistake. It was said that the Army Medical Inspector as of 20 of 7-44 was appointed without Handloser's influence. In the translation the opposite was said, namely, appointed by Hand-

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loser. I wish to correct that. Witness, it is true, isn't it, that the Medical Inspector of the Army was appointed without Handloser's influence? Didn't you say that?

A. Generalarzt Walter, who at that time was Army physician and Army Medical Inspector, became evident to Himmler since he had instituted certain hospitals and there in he saw something very special and on his own initiative, probably through Burgdorf and Fegelein, appointed Walter as Medical Chief of the Army without Handloser, exclusive of any influence in that respect.

Q. I now submit to you these six charts which are documents coming from Document Book Volume I, at first 645. The chart is headed "Organization under the Reich Commissioner, Karl Brandt." These two lines, however, were struck out. Is this chart available and does the Tribunal have it?

THE PRESIDENT: Do you have the exhibit number of that chart?

DR. SERVATIUS: The exhibit number I am afraid I don't know. The chart was submitted in the first document book and is NO-645. I am just hearing that it is exhibit #3.

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Q. Witness, would you define your attitude to this chart and say something about its creation?

A. The decisive thing about this chart is that at the head, the designation "Organization of the German Medical Service under Reich Commissioner Karl Brandt" was struck out and this was then signed by me. In order to understand it further I must say something how this chart originated. In the last year during the course of 1945, I was repeatedly interrogated about my activities and position in 1945 in Kranzberg. In connection with these interrogations two charts were made by me and on these charts I illustrated the possible organization as it maybe should have been at one time. During these conversations, in order to keep everything simple, certain designations of the offices were not considered important and these two charts were then submitted to me here with the question whether I made them, which question I answered in the affirmative. I then signed these charts but with that signature I did not mean to say that whatever is contained in these charts, and there is no accompanying text to it, is correct. It could not be correct at all, since it says on the chart here on the right side, "The Chief of the Civilian Health Service, Dr. Conti." From my present testimony it can clearly be seen that there wasn't such an office but that it was the wish of the people who participated that there should have such a position. This "Chief of the Civilian Medical Service" firstly did not exist at all and there was no department in the Reich Labor Service co-ordinated, as it is indicated on this chart, so the entire combination is wrong on the civilian side as they are described in my two

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charts, that can only be understood if certain explanations are made.

On the left side it says "The Chief of Medical Service of the Wehrmacht." The Reichsarzt-SS and Police was never subordinated to that office. At that time, during discussions, it had been said in order to render a complete understanding of this chart possible, that in this special respect the Reichsarzt-SS and Police was also subordinated to Handloser but not generally.

My department for Medical Science and Research with the name of the Chief, Professor Dr. Rostock, never had any connection, for instance, with the Kaiser Wilhelm Institute, and the arrows which can be seen here do not show that there

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was no subordination of these offices to me. The Office of Science in the Reich Ministry of Education on the second chart on the left is an office of the Reich Ministry of Education and that can very clearly be seen, and comprises, as the word science generally does, not only medical matters but also philosophy and astrology. This is similarly the case with the other offices described here.

The Military Medical Academy is an institution of the Armed Forces. The row of positions as there indicated at the top of the chart only show offices where medical matters were worked upon or could be worked upon.

Q. To whom was the Military Medical Academy subordinated?

A. The Military Medical Academy was a purely armed forces institution and I am sure Generaloberstabsarzt can give more information about this relationship.

I must now point to the Department of Planning and Economy, the leader Sickinger. Here, for instance, there are arrows pointing to the Reich Ministry of Economy or the Reich Ministry of Armament and the Four Year Plan. That, of course, does not mean that I could give any directives to the Four Year Plan, whose chief was Goering. The chart can only be used for the purpose of giving some kind of idea or picture of the entire field of the Civilian and the Wehrmacht Sector. This adjustment was my personal responsibility. In other respects the Office of Science and Research and Planning and Economy were for the purpose of adjusting the needs in these departments and bringing them up to the needs which at that time were necessary.

Q. And you described the whole thing as a working chart

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or a working plan?

A. The words "working plan" was not mentioned for the first time in Kransberg two years ago but in order to give this chart some kind of a heading, since "Organization of the Medical Service" was struck out, I agreed with one of these gentlemen, I think it was Herbert Meyer, to the words "working plan." It only has a meaning where the necessary explanations are given. I might read the text which I added at that time. "My own offices were subordinated to me personally and I was responsible for them, that is, the Department for Medical Science and Research, and the Department for Medical Planning and

Economy." Now follow the names of the medical chiefs. "For such tasks as were given to me or to my departmental chiefs, or for such tasks as arose from special situations to me or to my own offices, there was a power of direction of the various offices as they are described in the plan, that is, from the Office of the Reich Commissar for the execution of such tasks as far as it was not in contradiction with the other offices from which they received direct superior directives. For the execution of these mentioned tasks of my offices, I bore a personal responsibility. The tasks of the General Commissioner, the co-ordination between Wehrmacht and Civilian Sector, that is in reference to medical and health matters, continued to exist as the basical task of the Reich Commissioner. The Decree 1 of 1942 which referred to medical and health service was not rescinded through the decree for the appointment of the Reich Commissioner.

Q. Mr. President, another mistake of translation is pointed out to me with reference to Handloser. It was said that the Reichsarzt-SS Grawitz in certain respects was subordinated to Handloser. Would you explain what you said, witness?

A. I do not recall my sentence.

Q. I shall repeat it to you.

A. The Reichsarzt-SS was in no way subordinated to Generaloberstabsarzt Handloser. He was completely outside his jurisdiction and competence.

Q. I should like you now to consult the second chart, which is...

THE PRESIDENT: Counsel, the Tribunal would like to know whether or not Defendant Brandt, the witness, and his counsel, would care to have the Defendant Brandt prepare a new chart showing his present idea as to what the true picture is, to be compared with the chart concerning which counsel has just examined the witness?

DR. SERVATIUS: I have not prepared a chart, as is suggested, but I can do that later and submit it to you.

THE PRESIDENT: With such a chart before it, the Tribunal could weigh one chart against the other and probably understand the situation more clearly, together with the evidence of the witness in connection with the chart.

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DR. SERVATIUS: Yes, Your Honor, I am going to draw up a chart, as you suggest.

BY DR. SERVATIUS:

I now submit to you the chart of the Armed Forces Medical Services which was signed by your co-defendant, Professor Handloser. It is the Document NO-282 and it is Exhibit No. 9. Would you define your attitude towards this chart?

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A. At the head of the chart, it is said and confirmed what is established in the official directive of August, 1944, where it says that the chief of the armed forces medical service will have to work according to the general directives of the Reichs Commissar for Medical Health Services. It does not say, however, and that it confirms in the same chapter, that the Chief of the Medical Service of the Wehrmacht is technically in charge of all medical problems, according to the directives of the Chief of the OKW. I believe that General Oberstabsarzt Handloser wanted to indicate here with reference to his relations to me and I am sure that he will be able himself to explain the official relationship between me and him. In addition, I am of the opinion that Mr. Handloser has tried to describe matters as they actually were, especially when one points out to the note which he made himself. According to my opinion, one must draw a clear cut line between the bureaus of the Army, Navy and the Luftwaffe on one side and the field of the Waffen SS, the Organization Todt and the Reichs Labor Service, that is the affiliated associations as they are designated. I know of the difficulties and particularly the responsibilities which Dr. Handloser experienced in order to receive medical technical reports from these latter three organizations. With reference to the left boxes in the chart, that is Army, Navy and Air Force. I should assume that the description is correct certainly in principle.

Q. Then, I ask you to look at Chart No. 3 and this is Document No. 418, Exhibit No. 12. Won't you define your attitude to this chart?

A. It is a chart, which originated from Professor

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Schroeder and is an organizational chart of the Reich Medical Research Organization. The chart looks very complicated and I am not very well versed in these relationships of positions so I could not gain a complete picture of these charts and various arrows where I could say they are correct.

Q. Will you please refer to your position ?

A. As far as my position is concerned, the designation according to my opinion is not very clear from that crossed line and technical subordination should be deduced. The decree from the Wehrmacht Medical Service of August

7th, 1944 says very clearly that the technical subordination has to go to the chief of the OKW of the Armed Forces. In this chart here, some such description would have to be given. Furthermore, it is not clear to me why, for instance, from my Department Economy, there is no connection to Hand-loser, while there is such a line from the office called Research. I think that those relationships which were with me and the chief of the Army Medical Service have to be described, as I described them before and that everything else in this chart can be left aside.

Q Then, I ask you to look at the next chart. It is No. 419. This is also a chart signed by the co-defendant Schroeder and is for the time from January 1, 1944 onward.

A I can only say the same thing in connection with this chart as I had said before; I am not well enough informed about the general matters with reference to my position at the date mentioned, January 1, 1944 as no change occurred compared to January 1, 1943. The only question may be the designation of the Reichs Commissar and that occurred three-quarters of a year later and cannot be included in that plan.

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Q. As the fifth chart, I should like you to look at Document No. 416. This is a chart headed "Organizational Chart of the Medical Service of the "SS" up to August 31, 1943 drawn up by the co-defendant, Professor Dr. Mrugowsky. I ask you in this case to define your attitude insofar as it concerns your position.

A. There is a blank line here going from my name personally. On the basis of the decree of July 28, 1942 the Chief of the Armed Forces Medical Service and this black line is explained as the channel of command. The decree, which we discussed this morning, gives you no indication and does not justify such a description. It says that my function was the coordination between the Wehrmacht Medical Matters and Civilian Medical matters and some special tasks and I quote the last decree of the 7th of August once more, that is a much later period so the superior office is really the Chief of the O.K.W. It can be seen from that the superior agency is the Chief of the O.K.W. That means that this black on this chart is certainly not correct and I am sure that Dr. Mrugowsky wanted to indicate some other description.

Q. How about your connection to the Reichsarzt SS Professor Grawitz?

A. That, of course, is completely ridiculous. I had no connection at all to Grawitz and certainly there was no channel of command emanating from me. I think there is material to confirm that. I said this morning that after the signing of the decree the SS as such was very clearly outside my jurisdiction and that was done by the Fuehrer himself in the presence of Himmler.

Q. And I should now like to ask you to look at the last

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chart, No. 417, which is a second chart signed by the co-defendant Professor Dr. Mrugowsky , which deals with the period starting from September 1, 1943.

A. This chart is essentially the same as the one I looked at before. I should like to define my attitude with reference to my

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own position. It is wrong because on September 1, 1943 I neither had the order to institute a Department for Science and Research nor was the second decree that is concerned with that matter issued at that time. With reference to Handloser and Grawitz, the same relationship exists as is indicated on the chart.

Q. Will you put these charts aside now? On the basis of the third decree, you had received a special position with reference to the execution of your old task. How did these new authorities actually affect practical developments?

A At that time in the autumn of 1944 I had to take two basic difficulties into account, one was that the civilian charter was non-existent, that is decrees for the Chief of Civilian Medical Service. It was suggested by Minister Lammers and should have received similar designation, as the Chief of Medical Services of the Army, but it never originated. On the other hand, the authority of Dr. Goebbels took place at the same time with reference to results for total warfare. That has as its consequence that Dr. Goebbels interfered and had the power to interfere in every department he could dispose of, and adopt measures which to him as he said at the time seemed necessary for optical reasons. One of the first measures in this respect was again the attempt to discontinue studies at highschools, and for this reason I had a heavy quarrel, a serious quarrel with him. I must point out that at that period of time the discussion between Dr. Conti and myself had intensified and Dr. Conti, with the support of Martin Bormann and his connection with the party chancellery and Gauleiter, made difficulties in every respect. During such a quarrel Dr. Goebbels arrived at a formulation which I did not understand at the time, when he said that I had to be quite clear that there were Martin Bormann against me, and with him the Gauleiters and also Dr. Conti. Afterwards I found out that the real cause that Martin Bormann was against my appointment as Reich Commissioner, and for this reason during my absence from the Fuhrer Headquarters put forth a number of

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arguments, which in his opinion would incriminate me. Certainly some mention was made regarding my attempts to establish connection with the Red Cross, and a few other maybe not so other important factors were mentioned. At any rate a few days later I lost my position as Escort Physician of Adolph Hitler, what at that time I occupied. Hitler in these days had been ill, and he was only present in the headquarters for one day. At this occasion I was told that he would receive medical supplies from Professor Morrell, among which strychnine was available. It was not quite clear to me what he meant, since Professor Morrell, as personal physician since 1937 was responsible for internal diseases and had the order not to inform me about anything which concerned the Fuehrer himself. When

I investigated the matter I found through a servant that Morrell actually in January of the year 1944 had ordered these tablets which contained strychnine, but which at that time Hitler took in such an amount that he daily reached the maximum dosage. I pointed that out to Himmler, and I also spoke to Professor Morrell. I then left and two days later I was ordered to come back again, and very shortly without any further words was dismissed from that position as Escort Physician. My deputy was immediately dismissed too, and in his place the Escort Physician of Himmler, whom I did not know until later was appointed as my successor. Starting from this period of time my office

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was placed under control and ever increasing controls were exercised. That is something I found out because of conferences which were heard at the Fuehrer's Headquarters which I attended a few times because of official business, and I was warned of a possible interference by Martin Bormann. In October 1944 I asked all my staff to come to me. There were only a few people, and I clearly told them about my situation. At the same time I told them that this should not desist them in any way from their technical work; everything which was not technical, which did not belong to their tasks should be left aside, and whatever was necessary should be continued under all circumstances. One has to look at the entire situation for that period of time, including the beginning of 1945. It was hardly possible to maintain a connection with one another. The possibility of Conti, in territories where troops were, Conti's position was not very important any longer, since the Army Medical Service also had to take care of civilian needs. At that time orders were given to transfer offices at that time located in Northern Germany. I had received directives from the Ministry of the Interior to transfer my office since it was not tied down to Berlin to Thuringia. This opportunity was at the end of March, and the first April days of 1945. I sent my family to the location of my office. This was used as reason for my arrest later, and I was condemned in a very peculiar procedure by the Gau Court in Thuringia. The procedure was peculiar for the reason that the judges who were to participate, that was an SS Obergruppenfuehrer, and one SA Fuehrer, had received a handwritten letter by Hitler before the procedure started, where it was said that a death sentence was to be passed on me. In this manner questions and answers were never in compliance, because my answer was always interpreted in such a manner it would lead to my sentencing. It was pointed out to me I was giving directives which caused the hospital to fall into enemies' hands, a measure which was a matter of course, because there was no purpose in sending wounded people from Western Germany to Eastern Germany and from Eastern Germany to Western Germany. It was pointed out I estab-

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lished connections with Switzerland, and I think it concerned my attempt to establish contacts with the Red Cross in Geneva, in order to point out the medical difficulties in the overrun countries, -- in the overrun territories. A sort of reserve of medical supplies, which was called by us a so-called "peace reserve", such a store was interpreted as a sign of depotism, and there is hardly any need to mention any one point.

At any rate the result was that I was transferred on the same day to the Gestapo Office in Prinz Albrechtstrasse in Berlin after the death sentence was confirmed, and I think it is due to Speer's effort that a postponement of the execution took place, a postponement of 24 hours, since it was tried to include Professor Rostock in that procedure who, in the meantime, had gone to southern Germany. Rostock was to be brought to Berlin. However, they were not in a position to find Rostock at that time since the communication system did not function quite well, since, in the meantime, the enemy had penetrated into Thuringia and Saxony.

After another few postponements of days and half-days I was transferred to a Gestapo office in Schwerin at the end of April. On the 28th of April this office received a teletype from Bormann from Berlin that I had to be sent to the prison in Kiel, but because of the advance of the Russians this Gestapo office had to move towards the west, to Flensburg, so that they could not go to Kiel, which had as its course that I was subsequently liberated around the middle of May.

Q. So that was your situation, the situation under which you received your authority as Reich Commissioner. That was the reason I put that question to you.

DR. SERVATIUS: Mr. President, I am now coming to the experiments in detail and this may be an opportune moment to start a recess.

THE PRESIDENT: The Tribunal will be in recess for a few moments.

(Recess was taken)

THE PRESIDENT: I will ask the reporter if he has a correction to make for the benefit of the record, the translator, I mean.

INTERPRETER (Mr. Rambler) Yes, your Honor. The word mentioned earlier today, the German word, hydrierwerke, should have been translated as hydrogenation works, which is the works for the process of the refinement of gasoline.

THE PRESIDENT: Counsel may proceed. I will suggest to the reporter and the Secretary General that they see that the translation as contained in the record appears correctly.

Court NO 1.

Q (By Dr. Servatius). I have one more question on the old subject. Witness, when did you lose your position as escort physician of the Fuehrer? Was it after you had become Reich Commissioner or before?

A No that was afterwards, shortly afterwards.

Q Was there any connection as far as motives are concerned?

A One may assume a connection because I became Reich Commissioner against the will of Martin Bormann and he tried everything to influence Hitler against me. He probably submitted the letter from me which he had obtained from Dr. Conti when I joined the SS Physicians' League which I mentioned this morning, when I put down in writing that I did not want to do any active SA or SS service. I have been told about similar things and arguments.

Q That is enough. Now I come to the experiments. As Document KB Number 2, I submit a chart, the correctness of which you will certify--

DR. SERVARIUS: Mr. President, the chart is not yet ready in English. I shall turn in one copy in German. It is primarily a chart which is understandable in itself. It shows the duration of the experiments in columns and there are red lines crosswise which show the position of the witness in each case. Right at the bottom his last position as Reich Commissioner and above that his position after the second decree, so that during the examination one will always have a picture of the chronological relationship of an experiment with the position of the witness.

Q (By Dr. Servatius) Witness, you have the document before you?

A Yes.

THE PRESIDENT: Just a moment. Has the Prosecution a copy of this chart?

MR. MCHEANEY: yes.

Q (By Dr. Servatius): You prepared this chart. Is it correct as far as the entries of your position after the second and third decrees chronologically?

A It is correct as far as this decree is concerned, and I have also entered under Number 6-D, Lost, and in 6-A, Sulfonamide, when I learned of these two groups of experiments concerning the Hirt and Gebhart experiments.

DR. SERVATIUS: Then please put this chart to one side. I offer the document as Exhibit Number 2.

THE PRESIDENT: Referring to document of June 4, 1945, this document was identified January 27 as Karl Brandt's Exhibit 1 for identification. It has not yet been formally offered as an exhibit before the Tribunal in this case. Does the defendant desire now to offer it as an exhibit? It was merely identified. I mean this document, counsel.

JUDGE SEBRING: Dr. Servatius, during the case of the prosecution on 27 January 1947 you exhibited, as I recollect, to one of the prosecution's witnesses an excerpt from "Life" magazine. At that time the Court was of the view that although it could then be catalogued as Karl Brandt's exhibit for identification only in order to eliminate confusion, that it should be offered prior to the exhibit you have in your hand, as Karl Brandt's Exhibit Number 1.

DR. SERVATIUS: I should like to submit it as Exhibit 1, but it is not available at the moment. That is why I left that number open and submit this document as Exhibit Number 2.

THE PRESIDENT: Very well.

MR. McHANEY: The Prosecution has just a formal question with respect to Karl Brandt's Document No. 2, and I understand it is now being offered as Exhibit No. 2 for Karl Brandt. I don't think we have any great objection to it going in as an exhibit, but there is some question in my mind as to whether or not it really isn't a matter of argument rather than a document which has any probative value in and of itself. It simply purports to give the chronology of the various experiments charged in the indictment together with the three decrees which vested the Defendant, Karl Brandt, with certain authority. I don't know but what it would be better if this document not be included as an exhibit in the record but simply presented as a matter of argument.

THE PRESIDENT: Counsel for the Prosecution may have time to study this document. It can be used today for examination. Counsel may study it tonight and inform the Tribunal in the morning if he agrees that it is correct or if he does not, and then Counsel may cross examine the witness upon this particular document if he desires to do so. The Tribunal will delay passing on the admissibility or non-admissibility of the document until tomorrow morning, but it may be used this afternoon by Counsel for the Defendant in examination of the witness.

BY DR. SERVATIUS:

Q Witness, I shall go into the individual experiments in the order in which they are listed in the indictment. First we come to the freezing experiments here during the trial. Did you have any part in them?

A No, I had no part in the freezing experiments. I heard of these experiments for the first time after I was arrested. If I recall correctly, it was last year when I was here in Nurnberg. Before that I had no knowledge of them. It is not quite clear to me in what way my Office for Science and Research could have been informed about it. It is possible that a general report was received there. Schroeder said once in another connection that copies of reports were sent there, but I believe that the freezing experiments were so long ago -- I don't have the table of chronology here.

May I -- that I don't believe I had that Office for Science and Research yet at that time. The freezing experiments were in May -- they were already concluded in May, 1943. That was at least three months before the nominal decree according to which I was to establish an Office for Science and Research which actually went into operation only in 1940.

Q: You want to correct yourself; you mean '44?

A: Yes. '44.

Q: How about Count C, malaria experiments?

A: I learned of malaria experiments only after I was arrested. I know nothing about them before. During the whole war I had something to do with malaria on two occasions quite independently of the experiments mentioned here. Once the dean of the University of Bonn, Professor Schulemann, in his capacity as a medical officer had a small malaria hospital near Bonn in which the normal treatment of refractory patients was carried on. Because of an air raid on Bonn, the continuation of this hospital and the University Institute was endangered, and he approached me on this matter. We never discussed any experiments. I never made any such request of him or he never made any such request of me. The other time when I had something to do with malaria was that Professor Rose, who was carrying out malaria treatment on insane persons, or at least had a part in the, approached me about the sheltering of these patients. He came to me because -- it was either 1943 or '44 -- because in connection with the transfer evacuation of hospitals I was connected with an agency of the Propaganda Ministry, and he knew from the Luftwaffe through some agencies of the Air Raid Precaution Medical Service that I was connected with it. I told Rose at that time to go to

the competent agency in the Ministry of the Interior, and he did whatever was necessary. He took up the necessary negotiations. I had nothing else to do with malaria or with patients suffering from malaria.

Q: What did you have to do with lost experiments? Do you remember the diary of Sievers, the final report of Himmler — the final report of Hirth?

A: After I had received the assignment to make gas masks on the first of

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March, '44, at the end of the same month Siever called on me and on Himmler's orders, as he said, he gave me a final report of Professor Hirth about the treatment of lost injuries. He visited me in my office in Belitz. He said nothing else. The word "Ahnenberbe" was not mentioned. Nothing was said about any other work of a scientific nature administered from there, and I promised him that in April, in the next month, I would visit Professor Hirth myself. Sievers could not give me any further information about it, and apparently did not have any inclination to do so either. Then in the following month since I was in Strassbourg for another reason, I visited Professor Hirth there once. That was at the end of April, 1944. Mr. Hirth explained to me the essential points of his plans of treatment, and with the aid of a number of animal preparations, he explained what he had called significant in this final report. It was the question of supplying the organism with vitamins and the role of destroying poison which the liver plays in connection with lost damage. I assume that I was with him for about one hour, certainly no longer. With the aid of a number of explanations of a chemical nature which I cannot repeat altogether, the final conclusion was that it was necessary if one wants to treat lost injuries to introduce certain vitamin groups into the organism in larger quantities. In this conversation between Mr. Hirth and myself the question of illegal or special human experiments was certainly not brought up, not because there was the impression that we were trying to avoid anything, but because the questions asked during my visit to Mr. Hirth were of an entirely different nature from the beginning. I was there after I had read Hirth's report in order to obtain information about

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the special vitamin questions.

It was, of course, Mr. Hirth's interest to present his special view-point; and if one considers general lost treatment, this was not anything so special. The previous treatment with liver oil salve had the same aim. It is not clear to me whether in the course of 1944 I had any further connection with Mr. Hirth. It is possible that there was some correspondence. It cannot have been important. I never saw Hirth again. I never visited him again. I had no further contact with him.

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Q. Now, what about the sulfanilamide experiments. Did you understand the question about sulfanilamide and the treatment of wounds?

A. Shortly after the beginning of the war and in every theater of the war the question of the sulfanilamide was discussed. At that time sulfanilamide was exactly the same thing that a few years later, in the United States, penicillin was. Every one was interested in it, and the Professor Morrell, whom I mentioned before, had developed his sulfanilamide experiments, and the question of sulfanilamide was discussed at large. A sulfanilamide treatment in the Wehrmacht was started with the clear formula, with the aim -- I must mention the name of Professor Krueger because anybody who had anything to do with it knew what it was about, and besides Professor Brack, who was a consulting surgeon at that time, should have been interested in the question from a purely scientific point of view. This was my connection with Professor Rostack and with the Chief of the Medical Services of the Armed Forces, Dr. Handloser. An attempt was made amongst the troops to obtain clear results. - clear findings about the effectiveness of sulfanilamide. I, myself, in 1944, had a special hospital, ambulance, and so forth. I had made them available, thinking that instead of the usual type of observation, we would have to accompany the wounded with a type of hospital from the first wound at the front until final healing. The doctors should always be under one chief; that is, the treatment of the patients should be controlled from the beginning to the end, which otherwise was interrupted by transfer from one hospital to another. In all questions of sulfanilamide there was no case of the

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Gebhardt experiments. I know that Professor Gebhardt once thought that after he finished his experiments, but before the report in the Military Medical Academy, he had informed me about this question. I believe he was mistaken when he said this, and he will probably confirm this himself, that he made a mistake. I can only say that before Gebhardt announced his experiments in the Military Medical Academy, I was definitely not informed. I did not order the sulfanilamide experiments. I did not have any other connection with them. I was informed by the report

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in March 1943, in the Military Medical Academy - May 1943, in the Military Medical Academy. The nature of the report of Gebhardt did not give me the impression that the experiments, themselves, had been conducted in any criminal manner.

Q. Did you object to the report?

A. No, I had the impression, and Gebhardt will probably confirm this, that Gebhardt gave the description in such a way that those present at this report had to gain the impression that he had tested a limited number who were effectively condemned to death. So, I certainly did not object in any form; otherwise I would have a different memory of the report than I do. I cannot recall the actual working of the report. I remember the fact that I was there, and that I did not object. From that, I conclude that Gebhardt made his report in such a way that these who were present, who heard, the report had no reason to object in any way.

Q. Persons condemned to death were mentioned. Did you have any misgivings that such death sentences were completely unobjectionable from the legal point of view?

A. No, I did not have any misgivings in that form. I said before that if I received such I would have misgivings.

Q. Now, I come to the experiments on transplantations and regeneration. Were you informed about them?

A. I can say nothing about these experiments. I was informed of them only here in Nurnberg. I knew nothing about them before. I have nothing, whatever, to say about them. I was temporarily of the opinion that they were reported in some other form; although I was not present at the discussion but later on, that was not the case.

Q. Now, you are charged with participation in the Sea

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Water Experiments. Do you have anything to say about that?

A. I learned of the Sea Water Experiments for the first time through the Indictment. I knew nothing about them beforehand. I did not learn of them -- I had no part in them, and I only knew of them after reading the Indictment. I could not, at first, realize what it was about. I assume if

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Schaefer says in his affidavit that he thought that the higher circles of physicians knew of this problem, that it was an open secret, he probably meant the people who participated.

Q. He will be able to tell us that. Now, did you have anything to do with removing poison from water?

A. I had a conference in Berlin for obtaining apparatus for disposing of poison gas. It was a question of obtaining apparatus for the war against chemical agents. Apparatus for removing poison from water was discussed but no final decision was reached. I met Mr. Mrugowsky once, who was connected with such apparatus; this removing of poison from drinking water after gas attacks.

Q. Then, the Indictment lists experiments with Hepatitis. A letter from Grawitz to Himmler says that you furthered these experiments. Did you, yourself, work on this question, clinically?

A. I never did any work with Hepatitis Epidemica. If so, it would have had to have been during the war, since the war this disease was of no importance in Germany (during the war). I did not deal with this question because I was too busy with other things in the first place, and in the second place such a purely internal disease is of interest to Hygienist, and was relatively uninteresting to me as a surgeon.

Q. Did you issue research assignments on this subject? How about Doctor Dohmen?

A. I do not know why I should have given a research assignment to Doctor Dohmen. Of course, the question of Hepatitis was a question which interested everyone. Every one encountered it everywhere in the East. But, for that

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reason I would not have given special attention to that disease. It had no relation to other things which interested me more as a surgeon. I know the letter. I was told about it last year. I saw it here for the first time, this year. It says that I had asked Mr. Grawitz to have a Doctor Dohmen carry out special Hepatitis work. Doctor Dohmen, the letter goes on, was to obtain seven or eight prisoners for that purpose and the lives of these prisoners would be endangered. It is not clear to me in what

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connection and for what reason, in the letter, mentioned my name as the instigator of Hepatitis research for in all the rest of the correspondence and in all the other documents there is not even the slightest hint that I had any particular interest in this question or that I was so interested that I would have started it. Assuming that the experiments were carried out, I would never have received any report citing results. There are indications against the sense of this letter, especially when it says these experiments are to be carried out on persons to be condemned to death. Hepatitis Epidemica is not a disease as dangerous as all that. I have inquired meanwhile, and know that for example, compared with Malaria it is dangerous only about tenth of a fraction as Malaria. Today, I have already discussed my relationship with Himmler and with Grawitz; that was not invented; that was actually the truth. On the other hand, all the correspondence - in all the correspondence, Hepatitis, one year later, after the first letter failed to have the desired effect, Professor Schreiber is looking for a way to approach Himmler in order to have Hepatitis research work continued.

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Schreiber was the deputy for epidemic control in the Reich Research Council so that I may assume for a reason which is not quite clear to me that Grawitz possibly confused Schreiber and me in the first letter. That is conceivable. The letter is dated the 1st of June, 1943, a short time before there was the meeting of the Military Medical Academy; and probably Grawitz, who was present, talked to Schreiber as well. In any case I am not able to give any information about this question of hepatitis and certainly not about any experiments which actually took place. I have no information; I received no report; and I did not hear from any other source even now that these experiments were really conducted. It seems to me significant that the witness Schmidt who was here testified that the experiments were not conducted in Strasbourg, as Dohmen, who was to conduct them, was there for only two or three days himself.

MR. McHANEY: If it please the Tribunal, I don't like to get up and object; but it seems to me that the witness should confine himself to answering questions which are put to him by his defense counsel and refrain from making arguments on the basis of the evidence which has gone in. He has now been discussing at length the testimony of various witnesses and the assumptions that he draws from them. I think that argument can be taken care of by defense counsel at the appropriate time.

DR. SERVATIUS: Mr. President, the answers were no doubt all essential. Whether I chop these questions up in pieces or let the witness speak consecutively makes no great difference in my case. It would only take longer and would be confused. But if the Court wants me to ask him short questions. I will do so.

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THE PRESIDENT: Counsel had been proceeding satisfactorily with the examination of the witness. The witness has included occasionally matters of argument which might properly be made by his counsel but has not consumed much time; and the prosecution witnesses were allowed considerable latitude also. The examination may proceed in the manner in which it has been conducted heretofore.

Q. Witness, you are accused of participation in sterilization experiments.

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You know the documents which the prosecution has submitted. When did you first learn of this problem?

A. I learned of this problem of sterilization after I was arrested here; and I learned for the first time only now the type of procedure. From this fact that two or three minutes of X-ray treatment was intended to sterilize I want to prove that I certainly did not know about it for that is such an unscientific conception of this biological process that one cannot imagine any doctor would be in favor of such a plan. I was connected with it by the fact that a Doctor Schumann, who was connected with an agency of Bouhler, was involved in this question. I cannot remember ever having seen or talked to this Doctor Schumann. I certainly never gave him any instructions to take up this question of sterilization; and I was not consulted, I was not asked whether he could do that or not; and the name of Dr. Glauberg, who also played a role in this, I heard only here during the trial. Concerning Dr. Schumann, whom I mentioned first, and the agency in which he worked, I must add that I never entered his office and, of course, I had no influence on the hiring of personnel by Bouhler's agency.

Q. We'll come back to that when we discuss euthanasia. What part did you have in the typhus experiments?

A. I learned of the typhus experiments, not details, just the fact that such experiments were conducted, as far as I can recall in interrogations last year; but it may have been at the end of 1945. It is asserted in the documents that my agency and Prof. Rostock were informed; but this means only that the subject but not the manner of execution was discussed if at all. Rostock was not asked for approval for the execution of these measures; but I know that in this

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case he received a carbon copy. I can testify about these experiments only what has been presented by the prosecution here in documents.

Q. Now, did you hear of the report at Hohenlichen and protest by Prof. Rose?

A. No, as far as I am informed this protest of Prof. Rose's was not reported in the minutes of this meeting at Hohenlichen. If typhus was dis-

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cussed then, this was within a certain group of interested persons; and I did not participate in it.

Q. Witness, now there are a number of points which are not directly the subject of the indictment but which have been brought up here in the course of the trial, the questions of biological warfare, polygal treatment, phlegmon, cancer research. Did you have anything to do with any of these fields?

A. Of those which you have mentioned, phlegmon, cancer, I can answer only that I learned of them solely here through the prosecution. Also about the polygal experiments. I may say the following about the polygal experiments, that Prof. Rostock on the basis of a publication about the blood coagulation drug polygal in the Munchener Weekly approached this paper, this magazine, and asked for further information. The fact that he approached this magazine on the basis of the published article shows clearly that he had no previous knowledge; and after that he did not receive any further information about these things. I know nothing about phlegmon experiments. I know nothing about them before. If biological warfare is discussed, I must explain a little. When I received the assignment on the 1st of March, 1944, about the chemical warfare apparatus, Field Marshal Keitel spoke to me and asked me whether I was informed about biological warfare. I said "No," then he told me the following: In 1943 and apparently at the beginning of 1944, too, altogether three times on express orders from Hitler, he had passed on instructions that preparations against defense measures, against biological warfare, were forbidden as well as offensive measures; but he said it would be important if I had some knowledge of what work foreign countries were doing on

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biological warfare; and he said that through Generaloberstabsarzt Handloser I should go to Stabsarzt Klieve, who was gathering the material, I obtained the permission from Handloser to talk to Klieve; and then I did talk to Klieve; and he showed me the material which agents had brought him, which showed that preparations for biological warfare were being made by the United States and, above all, by Russia.

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He himself had no special laboratory or anything else. He was only registering these reports on paper. A letter was submitted here or a file note, rather, from Mr. Klieve, which is supposed to show that I had close contact with Blome concerning the question of biological warfare. This contact certainly didn't exist in this form. After I learned of this clear order of the Fuehrer to Keitel, I could not on my own initiative make any preparations for biological warfare. I could not even present counter-measures. The file note of Klieve probably means that Blome wants to tell Klieve that his institute in Posen was being generally supported by me. That is true. At the end of 1943, I think, Blome called me up, called me on the telephone. I pointed out this morning that I was concerned with construction and repair questions concerning medical matters. He asked me to use my influence to have his institute in Posen promoted from the construction angle. It was to become a general serum institute. Since I received this request by telephone, one can see from that fact alone that we certainly did not discuss biological warfare. I wrote a letter to Speer's construction office and suggested that this office should support Blome on his plans as far as possible. Those were all the connections I had with biological warfare.

Q Now about phlegmon and cancer?

A I know nothing about phlegmon experiments. I learned of them only here. As far as cancer is concerned there was never any question of experiments. I know that Blome was the man in the Reich Research Council in charge of cancer and that he had begun before the war to be interested in this question of cancer research. I never discussed with him that experiments were necessary or should be carried out. I assume he had no intention except work which might be conducted anywhere else.

Q Now about the typhus matter. I believe there was a mistake. You said that Professor Rose was in Hoenlychen in 1941, wasn't that in 1943 in Berlin, in the Military Medical Academy?

A Yes, that was a mistake on my part, that is a confusion between the meeting in Hoenlychen and the other meeting.

Q Now, witness, will you please tell us about the general aspect of the experiments. You are aware that experiments on human beings can be criminal. Will you please comment upon this?

A First of all I can say that experiments on human beings have been conducted as long as any scientific efforts have been made in medicine. To what extent they can be clearly classified as crimes one has to decide on the basis of individual cases. I do not want to go into the experiments right now since I know of them only from the Prosecution side, but to what extent human experiments are still conducted today I can show by a literary reference, a reference to something which came into my hands last year. Professor Kaudri, I believe of the University of Boston, pointed out that if one wants to make progress in the cancer problem one absolutely has to conduct certain very careful animal experiments and then one would have to decide from the animals. With cancer one would have to examine the organs by taking a part of the liver and other organs and examining them according to special methods. When that has been done, it will be necessary to conduct similar experiments very carefully on human beings too, that is, remove parts of organs, the liver, etc. I do not mean this in the sense that one considers such things from the scientific point of view which comes within

the border line between right and wrong. One would have to conduct such experiments because from a certain point on a biological comparison between animals and human beings is no longer possible. We heard recently that criminals are, under certain circumstances, used for such experiments. This is considered taking a chance. The criminal is given the opportunity of re-establishing himself by a decision of providence and it is not necessarily connected with any alleviation of his imprisonment, but these thoughts are only the consequence of biologicistic thinking, and as Professor Leibbrandt said, the further advanced and the more differentiated scientific work becomes, the more accurately must it be aimed at the final objective. How fast this differentiation has advanced in the last decade is shown by an example I have mentioned, blood. During the first World War we had no idea there were blood groups, barely ten years later almost everyone knew something about the four blood groups, and today we realize that within the individual groups there are five differentiations, just as blood was originally divided into four blood groups. Medically and biologically science with the aid of technology, and with the aid of finer biological investigation is advancing into the stratosphere in which actually only the human being himself can bring the final decision, and we know today very well that malaria experiments must in the last analysis be conducted on human beings. The same is true of the classic typhus and dengue fever and other infectious diseases.

In the experiments which were conducted in Germany the personality of Himmler certainly did play a role. I know that he was formerly a teacher and he never lost this quality and he was tempted to take up things of all kinds and carry them on. He was distrustful, he let no one see his files. Gubhardt will be able to testify to this too, and if one wants to describe the "scientific field" with which he concerns himself, one sees the dilettantism. He makes porcelain, he had a goldsmith; he tried to make gasoline out of water and coal. He forced his way into medical matters. This morning I spoke of Von Böhmer and his cancer research and on this side he had his excavations and Goodness knows what else. I assume he probably would have

considered me insane if he had heard that in 1944 I made attempts under the most difficult conditions to obtain animals necessary for experimental purposes. I must say that the question of the effectiveness of German chemical warfare was important in connection with the counter measures, and the Wehrmacht told me they had difficulty getting animals. I turned to dog catcher societies and I was told that was not enough from the parallelism to human beings but that monkeys were needed and then I tried through all the zoological gardens to get the monkeys together so that they would be available for the experiments. In the summer of 1944 I learned that even that was not enough and in contact with the Speer Ministry we had about 200,000 francs in Swiss currency which was made available to us, and it seemed the only opportunity to get the necessary monkeys either from North Africa or from Gibraltar, and we sent a man to Spain and had monkeys caught and brought there and brought them by devious means, by the Luftwaffe and we had agents in Bordeaux and took over the zoological gardens in Dresden because that seemed the fastest to us. I cite this only in order to show that the principle was not just to conduct the human experiments, but that my knowledge about these questions was that the animal experiments were the decisive factor and that human experiments were conducted only under certain circumstances and under certain medical demands. If one speaks of human experiment at all, then in my opinion one does not confuse the result of the experiments with the justification for it. A justified experiment may lead to a negative result because it was not the final thing and the right thing and one must observe one principle, that an experiment must not be kept as small as possible, but it must be as big, as extensive as necessary, so that the result is actually usable.

THE PRESIDENT: Court will recess until nine-thirty o'clock in the morning.

(The Tribunal adjourned until 0930, 4 February 1947)

CORRECTED COPY

Official Transcript of the American
Military Tribunal in the Matter of the
United States of America against Karl Brandt,
et al., defendants, sitting at Nurnberg, Germany,
on 4 February 1947, 0930-1630 hours, Justice
Beals presiding.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants
are all present in Court.

THE MARSHAL: If it please your Honor, all the defendants are pres-
ent in the Court.

THE PRESIDENT: The Secretary General will note for the record that
all defendants are present in the Court.

Defense Counsel may proceed.

DIRECT EXAMINATION--Continued

BY DR. SERVATIUS--Resumed

Q Witness, yesterday afternoon you were discussing your attitude
toward experiments on human beings. Will you please say when such
experiments in your opinion are permissible and what the guiding
principles in such cases are?

A I said yesterday that within medical scientific research in cer-
tain diseases and under certain conditions, in order to guarantee
further development experiments on human beings are absolutely
essential. I said that there can be general reasons for this.
Of course, there can also be special reasons -- I refer to the
war--for special experiments and special work in certain directions.

It is a matter of course that before one undertakes a human
experiment all possible animal experiments must be conducted first,
and that the execution of an experiment on human beings requires all med-
ical and human precautions.

I indicated briefly that one can not judge retroactively from the
results of an experiment its justification and that, vice versa, a
negative result does not mean that the experiment as such was not
justified.

If one does conduct experiments, they must be kept on as small a scale as possible and, on the other hand, must be sufficiently extensive that the results are certain.

I believe that there are two basic questions which one must consider if one intends to undertake a human experiment. That is the question of the importance and the question of the unimportance.

"Importance" is synonymous with "necessary", in the interests of humanity, which one must consider as represented by individuals.

Assuming that the experimental subject volunteers for the experiments as such is not dangerous, or is as little dangerous as is humanly possible, then I consider that such an experiment is not much disputed.

It is different when I do not say that the experiment is important, the subject is voluntary and the experiment not dangerous. If I say that the experiment is not important, a human experiment, seen from the point of view of the unimportant, is in my opinion impossible. That is, perhaps, the first point where one could actually speak of a crime. If the experiment is unimportant, the subject a volunteer, and the experiment not dangerous, this is nevertheless no justification for the execution of such an experiment, because it is in the first place unimportant.

The question becomes difficult as soon as the question of the voluntary character of the experimental subject is discussed in an experiment which is recognized as important. It is that the subject does not volunteer, even if the experiment as such is not dangerous. In such a case, the words "not voluntary" must be defined, and one will come to different points of view.

Recently the question was discussed whether a prisoner can volunteer for an experiment. I do not want to take the definitely opposing view which was taken at that time, for I consider it quite possible that a prisoner may volunteer to have non-dangerous experiments performed on his person, but from the moment when there is danger—that is, danger to the life of the experimental subject through the experiment—at that moment, the physician as such can not alone decide whether or not to carry out the experiment. Here it is necessary that a superior authority give at least approval for such an experiment; that is, permit it.

Here the question of persons condemned to death becomes acute: whether the person condemned to death volunteers or not. I will leave that

question open for the moment. The person is given an opportunity, a chance, and the decision is more or less left up to him.

These experiments will also be discussed where the importance of the experiment is recognized, the subject does not volunteer, and the experiment is dangerous, or, even if the subject volunteers, where the experiment is dangerous.

It will probably be necessary to settle these questions basically, probably on an international basis; all the more because on the basis of the indications given in literature, every civilized state today -- if one considers human experiments a crime--every state is guilty. I should like to say that the higher scientific research is carried, the further this development has progressed in a state, the greater would be the guilt. The purpose of an order for experiments would be given; the point of view would be established from which experiments can be conducted, and, in the third class, for the execution, of the experiment itself, the necessary methods would be established. ^

Q. Now, witness, will you please come back to the experiments carried out here in Germany. Would you have been able to stop such experiments?

A. It is difficult to answer such a question since it is more of a theoretical question, but nevertheless I do not believe that I would have been able to stop them. If I had been informed about the methods of execution in the case of the dangerous experiments, I would certainly have been told that they were persons who had been condemned to death; and in the non-dangerous experiments I would have been assured of the voluntary nature of the subject, also the importance of the experiments, which in some cases were equal to a strong dispute. All this would have been pointed out so on the whole I consider it impossible for me to have stopped or prevented the experiments as such.

THE PRESIDENT: The Tribunal understands the witness has placed basic stress upon the importance and the non-importance of the experiments, having in mind the goal to be attained. The Tribunal would be interested in learning the attitude of the witness concerning his view, having in mind the circumstances of the occasion and his view of the importance or non-importance of the experiments charged in this indictment to have been conducted by the defendants. Do you understand, sir?

DR. SERVATIUS: Yes, sir. Witness, you have heard what information the Tribunal wants about the experiments. You know the experiments. Please speak of the cold experiments, the freezing experiments, as you knew them.

THE WITNESS: I must state that I know the experiments only from the prosecution's side and that I do not yet know the attitude of those who actually carried them out. I could possibly express my views on the experiments more clearly if I were asked to do so at the end of the examination of the actual defendants; if I must now comment on the actual experiments, I might later have to make some corrections.

DR. SERVATIUS: Mr. President, I do not know if I understood the court correctly.

THE PRESIDENT: The point is this, Doctor. Let us assume for the moment that the prosecution's version of these various experiments is correct.

Based upon that supposition, the court would be concerned in knowing the attitude of the witness about them. If an untold theory or point of view is presented by the several defendants when they take the stand on their own behalf, I am confident the Tribunal will allow this defendant to go back on the stand and express his attitude or view in consideration of the entire evidence then before the Tribunal.

BY DR. SERVATIUS:

Q. Witness, you heard what the judge has said. Would you please assume that what the prosecution has presented is correct?

A. If I speak of the cold experiments, they were conducted in the year 1942 and the occasion for these was a demand of the Luftwaffe in order to bring aid to those fliers who were in emergency situations. A superior state of interest, which I mentioned before, was no doubt decisive in this case. The execution of the experiments, insofar as they concern Mr. Rascher, seem to me exaggerated for his person from a certain period of time on. I know that similar experiments in the year of 1941 were carried out in the United States with similar results. Prisoners were not used but insane persons were used. The cooling was down to 25 degrees body temperature and there were six cases of death. I assume that similar interests and conditions were decisive as were later decisive for our Luftwaffe. That these experiments themselves have certain importance is shown by the fact that the American Air Force also announced in the past month that the experiments in Dachau had given them an advance of several years in their own research, so the experiments in Dachau have led to a generally positive result.

Q. Witness, about the high altitude experiments. Can you comment on them also, even though you were not a specialist? A, lease please express your opinion.

A. The high altitude experiments were possibly initiated for the same reasons. As far as the person of Dr. Rascher again is connected with them, one must assume the same thing that I just said about the cold experiments. I believe that from a certain point on he acted beyond the limits necessary. One is the importance of the experiments being carried on as small a scale as

possible.

Q. What is your opinion about malaria experiments?

A. They are a typical example of the fact that experiments on human beings are necessary. Research into malaria can be conducted only with human beings. I referred to Dengue fever yesterday where the situation is similar and the references, which you yourself made recently to the research in America now being conducted on one hundred prisoners, speaks for the fact that this is not of a criminal nature; that it is simply a demand in the interests of humanity and one knows about one million persons dying annually in India of malaria and the demand to help here is all the greater.

Q. Please speak about the Lost experiments?

A. The Lost experiments are to be considered first of all as non-dangerous. They have generally been carried out ever since chemical warfare agents have existed. A low quantity milligram of Lost is put on the skin in order to examine the reaction and later new methods of treatment are developed. It is a typical example of the fact that the volunteering, the aspect of the volunteering mass, is decisive. I know that in the Military Medical Academy practically every officer candidate made such a Lost experiment on himself. The degree of danger is virtually none. This would be an experiment which fell into the first group which I said was necessary, voluntary and not dangerous.

Q. You have also heard of the sulfonamide experiments. Please speak about them.

A. In 1941 and 1942 the question of sulfonamide was debated in the Wehrmacht among the physicians of the Wehrmacht and at home. It was not clear whether the use of sulfonamide administered locally on the wounds, or orally, that is, by administering sulfonamide tablets, whether this would give protection in all front hospitals. This question was debated and the decision as to whether sulfonamide was to be applied or not was at that time quite unsettled. There were individual surgeons and consulting surgeons who held the point of view that for the hospitals sulfonamide was to be rejected in caring for the wounded in operational methods and one should not put

sulfonamide powder on the wounds and think that that was enough. I know that in the experiments of Professor Gebhardt and other agents possibly the death of Heydrick in Prague played a role, perhaps as setting the time for this assignment. I said yesterday that I myself was of the opinion that this question should be solved in a different way by establishing a sort of movable hospital which would follow the patients and thus control the effectiveness of the sulfonamide.

Q. What is your opinion about the transplantation and regeneration experiments?

A. According to the one-sided presentation of the prosecution I cannot understand this problem completely. I do not understand the reasons for the type of experiments conducted and I wish to ask that I speak on this after Professor Gebhardt has testified himself.

Q. You have heard of the sea water experiments?

A. The sea water experiments possibly fall within the framework of the two experiments mentioned where the interests of the Luftwaffe were the impulse, which in the last analysis came from Goering and were executed with that impulse. Whether dangerousness played a special role I cannot say.

Q What is your opinion of Hepatitis research?

A Hepatitis Epidemica was a disease which effected all the Wehrmacht in the East severely. It is known that certain units lost 40% to 50% by this sickness. The disease, as such, is not dangerous; in the literature which was published only last year, 1946, it is said that special measures for prevention are not necessary because there is no danger to life. I said yesterday that the mortality figure is about one-tenth of that in the case of malaria. If experiments were conducted, and I assume that they were now, they were no doubt not dangerous and it is probable that the methods used in the investigations, such as the stomach juice investigations, or the liver functions, were not dangerous. The disease, as such, in view of the number of losses which the Wehrmacht had from this disease, was of special interest, and I assume that experiments in this connection were conducted in other countries in the same way as I assume they were conducted here.

Q Sterilization experiments were also mentioned - Schumann and Glauberg - will you please comment on them?

A The Schumann experiments seemed to me to have been useless experiments. I cannot imagine that with two or three minutes of x-ray treatment one can effect sterilization. I cannot declare myself positively in favor of the principle. There were no medical indications of why the sterilization was to be carried out.

Q Will you please comment on the Typhus experiments?

A Typhus is a disease which is to be considered as much more serious than Hepatitis or Malaria. Consequently, because of the actual loss of life through typhus the superior State interest in this disease during war time was all the greater. In order once more to give a comparison of the dangerousness of these diseases, one can assume that Typhus is 100 to 200 times as dangerous as Malaria. An example occurs to me on the question of the experiments. In the first World War a Turkish doctor, in order to study typhus and its transference from one human being to another, infected

310 Turkish soldiers with infected blood. About 170 of them fell ill. The others had already had typhus and apparently were immune. Of the approximately 170, 65 patients died. The result at that time, it was 1916, was decisive in many respects for the medical service of the Turks and they sought an excuse, a juristic excuse, for this physician who was responsible for these deaths, by declaring him temporarily insane.

Q. Now there remain the phosphorous experiments. Will you please speak about them?

A. The dangerousness of phosphorous experiments, as such, can be judged only as in the case of the Lost experiments. I saw innumerable phosphorous burns on women and children in our cities and the experiments conducted in Buchenwald must have dealt with the same symptoms, since phosphorous came from English incendiary bombs. The wounds healed after suitable treatment by various methods. Death occurred only where there were extensive burns and where the symptoms of the patient were those as in burns in general.

DR. SERVATIUS: Does the Tribunal desire any further information on these individual experiments?

JUDGE SEBRING: Assuming the Prosecution's testimony to be true concerning the charge of extermination of Jews for the purpose of completing a skeleton collection and the later extermination of tubercular Poles, will you have the defendant comment upon what military necessity existed, if any, for conducting those programs?

Q. Witness, you have heard the question of the Tribunal. Will you please comment on the tubercular Poles and the skeleton collection?

A. There was certainly no military interest in question in the skeleton collection. In the case of tuberculosis, I must assume that such things did occur. I would not consider it justified. I consider it necessary that as long as one can help a human-being and as long as there is any prospect whatever, one must help him. That one may consider transfers of tuberculosis patients from one place to another is a thought which is not unfamiliar to me. When I spoke of these special hospital installations yester-

day I can add that we considered moving tuberculosis patients and concentrating them at certain points in the Allgau and several such installations, hospitals, tuberculosis hospitals, which already existed, or in the southern Black Forest near St. Blasien; but I see no justification because a person is sick or suffering, or because he can no longer work, to kill him, no matter what his nationality is or what his age is.

THE PRESIDENT: I have a question. A question by Judge Beals. I understand the witness, in discussing experiments upon human-beings, to stress the danger to life only. I would like the opinion of the witness upon such experiments which it would be reasonably anticipated or known would result in serious physical injury to the experimental subject, whether internal or external, as to whether that would not also be an element to be considered, as well as danger to life only?

BY DR. SERVATIUS:

Q Will you please comment on that?

A It is a question of serious sickness and of subsequent symptoms to be considered but in my opinion a distinction must be made between whether there is actual danger to life or possible danger to life. I said before that I consider an experiment as not dangerous if it is not dangerous as far as a human being can judge. Of course I admit that there is no experiment which actually and under all circumstances is not dangerous, since even in the most simple injury there can be complications. But it is not expected. For example, if a malaria patient, who has contracted malaria through an experiment, cannot get rid of malaria and does not respond to treatment, that has to be evaluated differently than if the malaria could be treated and cured. But the conditions under which one undertakes such experiments is that one assumes that it is not dangerous.

THE PRESIDENT: The witness did not quite answer my question. I intended to request the opinion of the witness as to whether or not the particularly certain serious bodily injury, permanent injury, either internal or external, to the experimental subject, was not also a serious consideration

and that the only consideration is not the possible death of the subject? That is, in any experiment upon a human-being if it would reasonably be anticipated that the experiment would result not in death but in serious personal injury to the subject, either internal injury or external injury, would not that also be a serious consideration in determining whether or not any experiments should be conducted?

A Such a point of view is decisive in the selection of experimental subjects. I would consider that of about equal importance with giving a person condemned to death an opportunity to preserve his life under the conditions to be expected. I failed to point out one thing -- that is, that in all experiments one must make it clear to the subject what the experiment is about and what results may be expected. Whether the experiment is dangerous or not, this seems to me to be a decisive factor in the question as a whole.

BY MR. SERVATIUS:

Q. Witness, now I come to another subject; you were not alone on these things, you were in a circle of officers and associates. In this way you could learn of many events and be informed of them. Will you please explain your relationship to the group, so-called?

A. I must distinguish between several groups. Of the 22 co-defendants, I met nine only here in the prison in Nurnberg. Those are Ruff, Romberg, Becker-Freyseng, Welts, Shaeffer, Hoven, Riegelbock, Pokorny and Miss Oberheuser. I knew by name, but did not have any closer connection with three, that is Poppendick, Fischer and Rudolph Brandt. With six others, Mrugowsky, Schroeder, Gebhardt, Blome, Rose and Sievers I had only brief and occasional contact, and only with Sievers did I have any contact in connection with the experiments which are the subject of the indictment. I was at a conference with Mrugowsky once on an apparatus for removing poison from drinking water, which had nothing to do with the thing under discussion here. It was a discussion in connection with an assignment to determine the application of apparatus to determine use in chemical warfare. With Schroeder, even before he was Chief of the Medical Service of the Luftwaffe, I met him once or twice in connection with the question of construction of hospitals, since he too was interested in such matters from the Luftwaffe side. I saw Gensken only once. I no longer remember exactly what year it was, I believe it was 1944 when he approached me in order to get some medical officers for the Waffen SS, whom he had asked for from the Army and not obtained. He thought in this way he could have his wish fulfilled more quickly. I did not know Gebhardt before the war. I met him the first time during the war, at the beginning of the war with Poland when the headquarters leaders and Himmler's Headquarters were in a special train, and the trains were near each other at Gross-Bauern where the troops were on maneuvers. There was

a big troop bandaging place where Polish soldiers were being cared for, and Gebhardt and I helped there day and night to take care of the wounded. It was my first personal contact with him. I saw him several times when Himmler visited the Headquarters, but we did not really talk with each other. I was with him a longer time the first time at Hohenlychen at the meeting in 1944 in the spring. I have known Blome since 1941, I believe. I met him with Mr. Conti. There were the differences which I had mentioned between Dr. Ley, Conti, and so forth, and Blome had taken up a very definite attitude against Conti. I met him occasionally on the same question of leadership of Wehrmacht physicians, but we never discussed the things which are under discussion here. Rose visited me once in 1944, I believe. Yesterday I mentioned his desire to have the paralytics, whom he was treating with malaria, put in a hospital, and I was in contact with him a second time, I believe it was in writing though, when he asked for additional food rations for those malaria patients. I passed on his request to the food ministry. I referred to Sievers yesterday. I saw him only once, when in connection with the apparatus against gas he gave me a final report from Hirt. He did not tell me about the Ahnenerbe at that time, or about other experiments which were being conducted. Then there is another group of gentlemen, Handloser, Rostock and Brack. I discussed my contact with Professor Rostock yesterday. I worked with him for 19 years. Generaloberstabsarzt Handloser, after 1942, the events over Viasma, I came in contact with him and since that time I have had increasingly close contact with him. At the end of the war, his office as Chief of Medical Service was open in Belitz, a small suburb of Berlin, where I was also located and from the practical necessity of location we came together there. I did not discuss the experiments which are on trial here with him. The last is Brack. I met Brack in 1934 as the Adjutant of Buhle, the head of the Chancellery

of the Fuehrer in Berlin. I had more closer connections with him later in 1939 or 1940, when the problem of euthanasia had been brought up, and then until he went into the Wehrmacht in 1942 I saw him frequently.

Q. Those were the individual persons; what contact did you have with the medical societies?

A. I did not belong to any medical society until 1933, I was a member of the German Society of Surgery, and in 1933 I resigned so that I had no connections with these societies.

Q. How about the National Socialist League of Physicians? You mentioned it once?

A. In 1933 I joined the National Socialist League of Physicians. Before there was any meeting or discussion I was sent material and with a request to make a speech on racial questions. I refused because in the first place the material given to me seemed to me too primitive, and in the second place because I did not have adequate scientific knowledge to say anything basic on this question. I do not mean to say I would not recognize racial points of view as such and that I do not think on the whole they play an important role in the lives of nations. I did not participate in the first meetings of the National Socialist League of Physicians in Bochum, at that time, and more or less from laziness I continued to remain a member. Other organizations which might be important here, Professor Liebrand mentioned the Altrose organization the other day. I was never there. Neither Conti or Blome asked me or invited me to participate in any of the meetings.

Q. What were your relations with Conti?

A. My relation with Dr. Conti was at first very uninteresting. We had no contact of any kind. From the moment when I had the task of coordinating Wehrmacht and Civilian health matters, a tension arose between us which never ceased. It was well known that I had to

be careful whenever we might get in public that it was not expressed.

Q I have a question about the meetings; were you not invited to meetings, were you not informed there about the questions, the issues?

A I took part in few meetings during the war. Until 1942 it would not have been possible, because as Escort Physician I was tied to the Headquarters. From 1942 on I was in Marburg, once at a celebration. I then participated in the third meeting of the consulting physicians of the Military Medical Academy, which was in 1942 in the spring. One morning I spent at the meeting of German soldiers in Dresden. In the fall of 1943 on behalf of the Fuehrer, I had to give Sauerbruch the Knights' Cross of War Merit Cross. There was a second meeting of consulting physicians of Hohenlychen in 1944.

Q At this meeting at Hohenlychen did you hold the welcoming address?

A Yes.

Q I will show you this opening speech, which is Document NO 924, which is not in any document book; which was submitted in one of the last sessions. I do not know whether the Tribunal has a copy in English.

A I must explain the history, the events leading up to this meeting, and point out the reason why it was held in Hohenlychen. In the spring of 1944 it was hardly possible to hold a meeting in a German city, because of constant air raid alarms the execution of a meeting would have been impossible. For a reason which I do not know Gebhardt learned of this. Gebhardt learned it had not been settled where this meeting was to be held and no doubt offered Hohenlychen as the place for holding the meeting, and Generaloberstabsarzt Handloser accepted the invitation.

It was possible to put up the many participants at Hohenlychen and receive them, and there was enough room to hold the individual conferences. Hohenlychen was, at the same time, an SS Hospital. The supreme Chief in this case was Himmler. I had to participate in this conference because a word was to be given on behalf of the Fuehrer by each one of the representatives from the Luftwaffe, the Army, and the Navy. In order to decide who was to hold the opening speech there, in any case, I had to distribute the decorations. Gebhardt, who was the host, asked me to hold this speech, and he said this was in agreement with Himmler. I did not discuss this question with Himmler himself either before or after and for formal reasons I made this speech in the name of the Reichfuehrer. I pointed out the necessity of common work of the doctors, in the interest of the soldiers, and gave this decoration to Gebhardt himself, first. I emphasized the value of Hohenlychen as a place of knowledge where post-operative care was carried out. Hohenlychen had gained a certain reputation in Germany during the Olympics. Gebhardt was in charge of the medical care of the sportsmen and through the nature and method of this treatment he was a man who was known far beyond the borders of the Reich.

That Hohenlychen was to play a special role in this direction was because in the Medical Zone there was a hue and cry for a new Hohenlychen, and it was apparently agreed to establish a new hospital in Luedenscheidt. Hohenlychen, as a sports place of treatment, in the case of Gebhardt, was a well known conflict with us.

As to the other gentlemen who were given an award, there was Gutzeit. Gutzeit was the consulting head of the Wehrmacht Medical Section. And I had expressly given him the award, because, in addition to his good work itself, Internal Medicine, which he represented, was to be honored as the text reading. Gutzeit was the only Internalist that received this award. So far as surgeons were concerned, Gutzeit had already received the Knight's Cross from Gebhardt, and the third was Professor Thoeniss a well known brain surgeon known in German medical circles. Herman Backmeister, at the head

of the Medical Center at St. Blasien as I mentioned a while ago, received the award in view of his work and participation in the fight against Tuberculosis.

BY DR. S. RYLANDER:

Q. Now, I should like to conclude this subject. I come to the Reich Research Council; you were a member of the Board of Directors of the Reich Research Council, were you not?

A. In 1943 I became a member of the Reich Research Council. At that time the Reich Research Council was under the Education Minister, and by a special decree in June of 1942 they removed it from the Education Minister and it was put under Generalarzt Schreiber. Scientific work was to be put on a very broad basis of general science and Schreiber seemed the right man to do this. The Reich Research Council consisted of a president and an administrative machine. Then, it had a set of leadership staff, about thirty or forty branches of different types of research. There were heads of each of the specialist groups. Medicine coming under the head of Classical Medicine was placed under Sauer Wach. There were a number of Deputy Ministers. The Deputy at the head of the Reich Medical Control was Dr. Schreiber who was mentioned yesterday. Aside from the Board, and this administrative machine, the Reich Research Council, was a representative

arrangement. There were representatives of the highest Reich Authority, and from agencies of which one could assume that they had some contact with scientific work. The Plenipotentiary Minister was in it. Speer was in it. And I was also one of the members, there were over twenty. The Board did not have any right to issue instructions and could not exert any influence on the heads of the specialist group and the deputies and the Commissioners. This was not possible because the composition of this Board was not from the point of view of Profession but of Agency. And it did not in effect play any important role itself, by reason of the fact that from a military research viewpoint, the Society was founded in July 1944. This fact was not even reported to the members of the Board, and I myself learned of it only on the basis of the document. I must point out that in April 1944, shortly before the end of the War, I received an appointment from Goering himself. That is, as the individual Deputy over a specialist group to take up the point and establish medicine and to take charge of them. I was to be the Deputy General Surgeon within the Reich Research Council. I received the degree only a week before my medical agency was dissolved in 1944.

Q Were you connected with the Reich Research Council through your office of Research?

A It could only be a matter of general names which Professor Rostock has for all office chief director with Prof. Menzel. He had no right to issue instructions to the heads of specialist groups because they were undergoing supervision; there was no other connection. Rostock made all of the appointments himself.

Q What is the Ahnenerbe Society; what was your connection with it?

A Until I was arrested, I considered the Ahnenerbe Society. Organization a sort of SS Administrative Agency concerned with Research in connection with antiquities of some sort. I did not know any details or any facts of anything that was done. I never had any contact with the Ahnenerbe at all. The only contact I had with Mr. Sievers is that he did not inform me. I did not even know that he came from the Ahnenerbe.

DR. SERVATIUS: Mr. President, now I come to the next count of the indictment about Euthanasia. Shall I begin now or after the recess?

THE PRESIDENT: Counsel, you may continue with the examination of the Defendant.

BY DR. SERVATIUS:

Q Witness, you appear to have participated in the experiments on Euthanasia. I shall show you the decree of the 1st of December, 1939, that is Doc. 360. It is in Document Book No. 14. Please discuss how this decree came about.

A After the end of the Polish campaign in about October, the Fuehrer was at Obersalzburg. I cannot longer clearly remember the advance but I was called to him and he told me that because of the Document, which he had received from Professor Bouhler, he wanted to carry out a solution of the Euthanasia question. He gave me general directives of how he imagined it, and the fundamental; insane persons, who were in such a condition that they could no longer take any conscious part in life.

These people were to be given relief by death. General instructions about information which he himself had received followed, and he told me to get in touch with Boehler himself about the matter. I did so by telephone on the same day, and then I informed Hitler about my talk with Boehler. Then he sent me later the decree, not in the form in which we have it here, but in a similar form, and certain changes were made. My request was that a precaution be introduced for the participation of Doctors, and I used an expression which was familiar to me. It said that Euthanasia could be carried out on persons incurably sick with probability bordering on certainty. Since this formulation was strange to him, it was added with the most critical judgment of their condition of sickness. This decree was signed about the end of October, which reads as follows: "Reichsleiter Bouhler and Dr. Brandt, M.D., are charged with the responsibility of enlarging the authority of certain doctors to be designated by name in such a manner that persons who, according to human judgment, are incurably ill can on the most careful diagnosis of their condition of sickness, be accorded a mercy death."

Q Did you talk to Bouhler?

A I talked to Bouhler only by telephone at first and after the decree was signed I did not talk to him immediately but sent the decree to him in Berlin.

Q And what was Hitler's idea of euthanasia? What did he understand by it?

A The decisive thing for him was what is expressed here in the decree; that incurably ill persons — really I should have said insane, other persons were always exceptions — a mercy death could be accorded. That is a measure dictated by purely humane considerations, and nothing else could be thought under any circumstances, and nothing else was ever said to me.

Q You said that the Fuehrer gave you the assignment on the basis of a call from Bouhler. It could not have been a call from Bouhler alone. There must have been other reasons.

A It was not a call. It was some kind of a documentary procedure which was decisive. It may be that the Fuehrer already had these documents or that Bouhler spoke to him about it. I don't know exactly. But this was not the cause of the euthanasia problems being taken up. In his book, "Mein Kampf", Hitler had referred to it in certain chapters. The law for the prevention of the birth of sick children is a proof that Hitler had concretely concerned himself with such problems earlier. The law for the prevention of the birth of children of congenital diseases followed the events. It was written because people with congenital diseases existed. It is a problem which affects the whole world. Similar laws have been passed in other countries.

Dr. Gerhard Wagner, who was the predecessor of Dr. Conti, at the Party rally in Nurnberg discussed these questions. I did not talk to Gerhard Wagner at that time and had nothing to do with these things, but I have heard now that in 1935 Gerhard Wagner had a film made presenting the problem of the insane.

It was apparently a film made in asylums with insane persons.

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Q Witness, were there not requests received by Bouhler and the
Fuehrer?

A Requests to this effect were certainly received constantly by
Bouhler

The Chancellery of the Fuehrer always received such things. I only know that these requests were passed on to the Reich Ministry of the Interior. I myself know of one request in the spring of 1939 which was sent to the Fuehrer himself through his Adjutant's office. The father of a deformed child approached the Fuehrer and asked that this creature should be killed. Hitler turned this matter over to me and told me to go to Leipzig immediately — it had taken place in Leipzig — to confirm the fact. It was a child who was born blind, an idiot — at least it seemed to be an idiot — and it lacked one leg and part of one arm.

THE PRESIDENT: We will have a recess for a few moments.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

BY DR. SERVATIUS:

Q. Witness, you were speaking about the affair at Leipzig, and regarding this deformed child, what order did Hitler give you?

A. He gave me the order to talk with the physicians who were taking care of the child and to, first of all, test the statements of the father as to their veracity. If they were correct, then in his name I was to inform the physicians that they were permitted to carry out Euthanasia.

It was important in this respect: that this should not happen in the form toward the parents that they themselves at some other period of time should feel incriminated as a result of this Euthanasia, and, therefore, that the parents should not have the impression that they themselves had been the cause for the death of this child. I was further ordered to state that if these physicians should become involved in legal procedures, they should take care by order of Hitler that this procedure should be halted. Then Bormann also was ordered to inform the Minister of Justice, Guertner, in this case.

Q. What did the doctors who were involved say?

A. The physicians maintained the point of view that the keeping alive of such a child could actually not be justified, and it was pointed out in this respect that in maternity wards under circumstances by doctors themselves in such a case Euthanasia would be performed without anything further being said about it. Any precise instructions were not given in that respect.

Q. This problem of deformities, was it treated in any other way?

A. The problem of deformities has probably already been discussed before this case in Leipzig. However, then in the course of the summer there was work done in a more concrete form, first of all, on the part of the Ministry of the Interior, and in this case we were involved as well as special consultant to Dr. Conti — who became Reich Minister for Health after the death of his colleague, Wagner, and then after that became State

Secretary in the Ministry of the Interior, so that Dr. Linden continued to occupy himself with these matters.

Q Who was Dr. Linden?

A Dr. Linden was Ministerial Counselor in the Reich Ministry of the Interior, and he was a physician, and he was a competent official who later on was in charge of all these sanitoriums, and later on in the course of the treatment of the Euthanasia question he was appointed as exponent for all these matters.

Q What was the procedure at the time? Was Hitler informed about all these matters?

A In August of 1944 by his order I participated in a conference which took place between Dr. Linden and Mr. Bouhler and some additional men, and in its course the question of treatment of these deformities was discussed, and which also included a discussion about the method of treating these cases. On the part of the Ministry of the Interior Dr. Linden put forth documents, questionnaires, etc., which had been furnished which were then discussed once more in detail, and in this case it was the preparatory work for the later-established Reich Committee for the dealing with sick persons who were suffering from inherited diseases.

Q Did Conti attend these conferences?

A I have never seen Conti in any conferences of this kind, and I have never heard him speak in this connection at any place.

Q To what extent did Conti deal with these matters in the Ministry of the Interior?

A It certainly is not only the question of this Reich Committee, but it is the question of dealing with deformities, and it was discussed in the Ministry of the Interior as long as the question of Euthanasia was discussed at all. At that time I did not have any knowledge of this purely administrative work, and only now I have had the possibility of getting a certain insight into the existence of all these conditions.

In the course of the Polish campaign around the middle of September, a conference took place between Dr. Conti and Mr. Lammers and the Fuehrer.

This conference took place at Zoppot near Danzig. There the question of the introduction of an Euthanasia law was discussed, and Mr. Lammers maintained the point of view that such a law would have to be worked out through the general Administration. Because of the long administrative channel connected with this, Hitler apparently objected. The whole question at that time was that no result was achieved between Hitler, Lammers and Conti.

Q. Were you at that time already informed about the matter, about the question of the legal problem with the Ministry of the Interior?

A. I was not informed at the time, and I have only been informed about it now. I did not attend these conferences, and I have neither discussed them with Conti later on nor with Lammers about the question of Euthanasia.

Q. This, all these incidents took place in the year 1939?

A. This conference near Danzig took place in the middle of September and when I referred to the Decree and its signing, this took place towards the end of October.

Q. Now why was this matter dealt with and started during the war?

A. I must assume that the Fuehrer was of the opinion that such a problem could, first of all, be carried out more smoothly during the war because the opposition which might have been expected from the side of the church would not play such an important part during wartime as it would in other times.

Q Therefore, there is a large preliminary history to the Euthanasia program.

A It certainly has been traced back to the time of 1933, and before. It would perhaps be important to point out that the decree was actually predated, and the formulation only took place in October, while the date of the decree was the 1st of September 1939. This pre-dating toward the beginning of the war shows that Hitler actually believed that the introduction of this law would be easier during war time. In 1935 he is alleged to have told the former Reich physician, Wagner, that if war should ever break out, he would deal with the Euthanasia questions and that he would have them carried out.

Q Now, if you come back once more to the text of the decree; then, you were given orders, together with Bouhler. What official position did Bouhler occupy?

A Bouhler was Chief of the Chancellery of the Fuehrer.

Q Just a minute, witness. In connection with this I am handing you the sketch of the Euthanasia program which was presented by the prosecution. It is NO 253; it is located in Part I of Document Book 14. At the same time I am handing to you a document, it is a sketch composed by the defendant, Brack.

Mr. President, the plan has not been translated as yet, and for the time being I have submitted a plan in German; it is not very important because I am not going to deal with the details in the plan, but only the top containing the names, so that you will also be able to follow the German copy.

In connection with this sketch, the defendant Brack has given an affidavit and I want to read it. It is Document KB 8, with the sketch belonging to it No. KB 15. I want to submit both of them as Exhibit No.

3. The plan will later be presented to the Tribunal in English, and I hope it will be ready by noon. I shall now read the affidavit: "I, Victor Brack, born 11/9/1904 at Haren, near Aachen, at present a defendant before Military Tribunal at Nurnberg, depose the following affidavit, after I have

been informed that violation of an oath, by standing or making false statements will result in severe punishment. The plan submitted was Document NO 426, Exhibit No. 106; it is plan No. 254, which I am submitting, was at the time partially composed by my statements and partially according to the suggestions by Dr. Hochwald, who is an interpreter. It was drafted by members of the prosecution. At the time I objected that such an organizational plan had never existed, and now this only can be construed by me, and therefore it may contain incorrect statements. The Prosecution assured me of the fact that the plan had only been composed according to the best of my knowledge. In the meantime, I have discovered by looking at various documents of the Prosecution, and I have obtained a clearer picture than I had at the time; and, therefore, I have composed a new plan about the Euthanasia Program and its organization, and it shows the relationships to the persons and offices involved in it and that they actually existed. I am submitting this sketch with the request now to submit this plan to Military Tribunal No. 1. The truth and correctness of the plan I have certified. The plan forms a vital part of this affidavit. Nurnberg, 27 January 1947. Then follows the signature of Victor Brack. And then the document concludes with the certification by Dr. Froeschmann, counsel for the defendant."

Q Witness, first of all will you give us your opinion as to the sketch of the Prosecution, and only as far as the top agencies were concerned, with which you were connected; that is without first going into details.

A In the plan No. 253, which has been presented, there is a line under my name which connects to the name of Bouhler; and below there is a further line in the program of Euthanasia. This connecting line is incorrect so far as it has been drawn to my name. The administrative machinery for the execution of the Euthanasia program was an establishment which was exclusively subordinated to Mr. Bouhler. It had been established by him and it was administered by him. Likewise, the connect-

ing line from my name to Dr. Conti, is not correct because it did not exist at all. The upper connecting line from Bouhler to Brandt, which has been struck out in part, and which in part has been continued as a line, to Minister Brack is not correct in this form either because when anything took place as far as the administration was concerned, that is, it all connected to the Ministry of the Interior. Then this also originated with Bouhler. In my opinion, in order to explain the sketch, it would be appropriate to state that also the statement in the affidavit by Brack would have to be repeated once more because also, the other sketch in this plan which refers to the subordinating agencies are also incorrect, and I would also consider the title Euthanasia Program as incorrect, because it was not described or outlined from the very beginning as far as its extension was concerned.

Q You may put the sketch aside now. Now, I want to deal with the sketch which the defendant, Brack, has composed. I am now handing you the plan. Have you already seen the plan?

A Yes.

Q Can you confirm, with regard to precision, that this plan has now been drawn correctly according to your opinion?

A In my opinion this plan lacks the connecting line between Bouhler and myself; and furthermore, it is correct that the red line from Bouhler to the executing agency of Euthanasia is Tiergraten Strasse 4, and that from there also the connection for the Reich Commissioner for the mental institutions and to Dr. Linden is correct. I assume that if such an organizational plan as now drawn up, it is correct in principle at least.

Q Of what agency was Bouhler in charge?

A Bouhler was the Chief of the Chancellery of the Fuehrer.

Q And with what did the Chancellery of the Fuehrer deal?

A The Chancellery of the Fuehrer, first of all, dealt with the private matters of Hitler himself; then, it was also a receiving agency for everything that arrived in the forms of requests and complaints; and

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from there compensations and other assistance was granted concerning requests. And then later — during the first Bouhler was able to make certain decisions, and then later the job was taken over by Dr. Bormann.

Q What was the character of Bouhler?

A Bouhler made a somewhat reserved impression. He was very quiet and whenever somebody met him he gained the impression that he was dealing with an honest personality. In his character, he may have been somewhat soft.

Q What was the party political connections of Bouhler?

A He may have become a member of the party at a very early period of time. Hitler had known him for many years, and certainly before the time prior to 1923, and he had an unlimited faith in him and confidence. As a result of this fact he obtained knowledge about many things in his official capacity. He certainly could always act as a barometer toward Hitler as to the attitude and feeling of the population. I did not know anything more in detail about his office, but I have said that I made the acquaintance of Brack in 1934, as an Adjutant, and prior to the time of 1939, and later after 1941 or 1942, I did not have any closer contact with him.

Q What was the contact between Bouhler, Conti, and Lammers?

A I knew of Lammers, and that a close relationship existed there, and certainly was the same with Dr. Conti, and the Ministry of Interior. Since a lot of mail arrived in the Chancellery of the Fuehrer, it was also the task of this office to distribute the mail further to the competent agencies.

Q Did Bouhler deal by himself, particularly with the Euthanasia problem?

A I assume he was also personally interested in this problem. Later on I also heard that he was one of its originators because he feared under the circumstances that existed in the individual districts, later on he would come to deal with this question individually, without having — without being able to cause the proper effect there in the districts. I cannot judge as to what extent this plan was dealt with. Now to the question of Euthanasia. When I discussed this question in October with him, he had made the decision to carry out the question and so solve the Euthanasia problem, and he maintained the same point of

view which I previously stated. He has not stated anything to me about Euthanasia, as it is described by the word, nor has he made any other requests. The words "useless eaters" never fell in my presence, and I do not think that they played any important major part in this problem because that refers to the consumption of food, and the number of patients concerned did not play any important part.

Q But now you must have had some personal contact with Bouhler?

A Later on I met Bouhler; that, as far as I know, was only in November. Previously I had not spoken to Bouhler because Bouhler was in Berlin and he continued to work there by himself after he had received my letters.

Q There was no special organization necessary in order to carry out Euthanasia?

A Yes, a special organization was established, and it is located in the middle, and it is sketched in pink (referring to the map before him). Shall we use the map once more? I want to assume that this representation, by dividing it into three parts, is correct. There was a Mutual Transport Company which was closely connected with the problem. Then, there was the Mutual Transport Association, which later on was connected with, and carried out the removals. Also in the Ministry of Interior there was the Reich Association for Mental Institutions which dealt with the diagnosis, and the evaluation of the questionnaires and so forth.

These three or four mentioned business titles were common names which were used during the time that Euthanasia was being carried out. I finally mentioned the Reich Association for Mental Institutions; that was the group which, first of all, dealt with scientific evaluation of the questionnaires, the group of diagnosis, and the previously mentioned agencies which evaluated the questionnaires.

Q Where was this agency located?

A This agency was located at Tiergarten Strasse 4, which is generally described afterwards as T-4.

Q Were physicians working at the T-4?

A Yes, there were physicians working at the T-4. The main diagnostician and the chief diagnostician were there. The main official agency was at this address.

Q Now, what was your task, at the main office, at that address?

A The task of Bouhler was connected with that of execution. My task within the entire Euthanasia Program had already been determined by the decrees. It consisted that I, together with Bouhler, had the authority over the physicians who were participating in this program, and furthermore, we had the provisional task toward the Fuehrer, himself. And, then, I had to maintain a certain contact with Bouhler with regard to decisions about questions which could be debated in any way.

Q What was your agency and how were you included in the administrative apparatus?

A I did not have an office, and I was not included in the entire organizational machine. Outside of special authority which was given to me by virtue of decrees from the Fuehrer, I did not have any instructions or directives in any form. I was not the superior in any way toward this administrative machine.

Q Well, who did have this superior position?

A Bouhler; it was Bouhler's T-4, and that was his agency.

Q What was the connection with the Reich Ministry of Interior?

A The Reich Ministry of Interior had another agency in connection with this program in the form of Doctor Linden, who was responsible in this question that is, the Reich Committee which I have mentioned before. Between the office of Linden and the executive agency of the Euthanasia T-4, there was a corresponding direct channel.

Q I am now submitting Document No. 156. I was unable to ascertain in what document book it is contained. It is a very short letter and I shall read it. I shall submit the report to you in the German text.

MR. McHANEY: The Prosecution has not been furnished with either a copy of a German translation or an English translation of this document. I remember it is a document which we had some discussion about in the early stages of the trial. The document, itself, was submitted by the Prosecution to the Defense Information Center, but was not used in the trial. I have no objections to this document. This matter was not introduced in evidence by the Prosecution, and if it is now offered it will have, of course to be an exhibit for Karl Brandt. Furthermore, it is not certified by any one; however, I make no objections on that ground since the document was secured by the Prosecution, and we are willing to admit its authenticity. However, I think that unless the Defense Counsel rather promptly established a more smooth working procedure for the introduction of documents, and furnishing of copies and translations for the Prosecution, we will be in a rather hopeless confusion with respect to the progress of the case. We will have to start maintaining files on the Defendants documents, and it is going to be rather difficult to be going back constantly to be sure we have received copies of the documents.

JUDGE SERBERING: Mr. McHaney, is it not true that some of the confusion that is beginning to arise is because of the fact that the proper administrative agency has not yet been able to translate these documents into English?

MR. McHANEY: I am not sure that I understood the question. Will you please repeat it?

JUDGE SERBERING: I understood from Dr. Servatius that although he had been reserving exhibit numbers for some of these documents, he had not been placing them in evidence solely because of the fact that the Translation Division had not yet been able to put them into English. Is that true?

MR. McHANEY: I understood his statement to that effect.

JUDGE SERBERING: It may not have been exactly that, but I understood it in that manner.

MR. McHANEY: In so far as it applies to this document, it has been in the possession of the Defense Counsel for two or three months, so obviously there should be no difficulty in getting it translated. I am perfectly willing to have the document go in as an exhibit now, but I would ask that Dr. Servatius and the other Defense Counsel be advised that it would be necessary in order to proceed smoothly with the trial that the Prosecution be furnished with advance copies of these documents, both in English and in German, as the rules of the Tribunal prescribe. And, only in that way will we be in a position to make our objections at the time to the documents as offered.

THE PRESIDENT: In the interest of time, English copies of these documents should be furnished to the Prosecution, and should also be made available to the Tribunal. I do not know whether the fact that this has not been done has been due to administrative procedure or to some other reason.

DR. SERVATIUS: MR. President, I would not like to state all of the technical difficulties which the defense has had with the translation as well as the other sections. It is very difficult to run everything smoothly and we are trying to keep these difficulties to a very small extent. With regard to this Document No. 156 I have looked through the document books because I assumed that they had already been presented as an exhibit and therefore I assumed that it had been translated because I was given this document by the prosecution. I request that it be temporarily admitted and I shall then submit it as Exhibit No. 4.

THE PRESIDENT: That procedure will be followed. The prosecution has consented to that and it's all right with the Tribunal. What number is this exhibit given? What number as to the defendant Brandt?

DR. SERVATIUS: It will be Exhibit No. 4.

THE PRESIDENT: Those are two documents, Exhibit No. 4 and Exhibit No. B.

DR. SERVATIUS: They are Exhibit 4 and 4-B. I want to read the short letter that they have not translated. The letterhead is "Chief Prosecutor, Stuttgart, 15 July 1940, secret.

"To Reich Minister of Justice

"Attention of Ministerial of Dr. Stadelmann or his deputy

"In office, Berlin

"Subject: Information as to the unnatural death of inmates of institutions.

"Enclosure: One anonymous letter with envelope. The enclosure address to the Chief Prosecutor at Ravensbruck.

"I enclose the following for acknowledgment. Since recent similar rumors have come to my knowledge, I request instructions if I should initiate investigations and how for this purpose the Secret State Police and the State Police I shall find at Stuttgart."

Then follows the signature. "By order of, signed Holzhaeuser"

Then comes a remark.

"Dr. Freisler has discussed the matter with Holzhaeuser personally and secondly no action is to be taken and third the incident is to be kept to-

gether with all other matters pertaining to the subject."

This letter which has been sent to me by the prosecution has the following inclosure with it:

"The Chief of the Chancellory of the Fuehrer of the NSDAP

"Berlin, W-8, 5 June 1940

"Vosstrasse 4

"Wilhelmstrasse 65

"Dear Dr. Guertner:

"This refers to the telephone conversation of the past few days.

I want to inform you of the following: by virtue of the authority of the Fuehrer, I, as the sole person responsible for the execution of these tasks, have issued the necessary orders to my collaborators. In excess of this the degree of such guiding regulations does not seem necessary to me anymore."

Q Then follows the signature which I consider to be that of Bouhler. Witness, will you state your opinion with respect to the to the second letter? Will you tell us whether the statement by Bouhler about his position is correct?

A The reference of Bouhler with respect to his position within the Euthanasia question is certainly correct. I cannot also confirm that the signature of this document is that of Bouhler. In this case he refers to his position at Tiergartenstrasse 4, from where this work was being carried out. As a parallel to that there existed another outside office of the Reich Minister of the Interior as far as I know in the Columbus house which has also been casually mentioned in this connection.

Q Have you ever been at that office in the Columbus house?

A I have never visited the office in the Columbus house and I have never visited the office at Tiergarten 4 either.

Q But you did work together with Bouhler. Of what did your mutual tasks consist?

A They consisted of the fact that first of all we were together with the Fuehrer to discuss foreign questions which resulted and later on the

procedure was that sometimes Bouhler alone and I by myself went to the Fuehrer and then he, Bouhler, obtained these documents again.

Q What questions were discussed there?

A In the beginning, some very fundamental questions were discussed. First of all the question of the veterans. That included those in the first World War. Then some persons who had become injured in the line of work and the following were to be excluded from Euthanasia: foreigners. Thus the order only applied to German Nationals. Another exception—I cannot recall any other exceptions and by myself I could not confirm that the instructions were given to exempt Jews from the framework of Euthanasia as far as the German Nationals were concerned.

Q Now, what was the procedure?

A First of all by the use of a questionnaire all of these sick persons were to be registered. This was not so much discussed and disputed as there was a secrecy in connection with the use of Euthanasia, which had been expected by the Fuehrer. He was of the opinion that this entire Euthanasia program could be carried out without the public obtaining any considerable knowledge of it or without it having indefinite influence on the public. Mr. Bouhler as well as myself pointed out several times that this was improbable and that perhaps it would be most appropriate to make the Euthanasia problem public. However, this was fundamentally disapproved and Hitler claimed that the administrative apparatus

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could not function properly in the execution; that this had to be possible. I just mentioned the questionnaire and it was of course, necessary to state what complexes of what diseases could be concerned which were to dealt with by Euthanasia. In this respect the question of the disease, the, the conduct, The duration of the sickness, the reaction of the patient to methods of treatment, etc., played a major part. Administrative, technical institutions, registr. officials which had been instituted in the ministerial institutions in connection with the Ministry of the Interior were also discussed.

Q We will later on refer to this question again in detail. You have heard of the question 14-F-13. In what way was this action in connection with the euthanasia program?

A The action 14-F-13 had nothing at all to do with the euthanasia program in my opinion. I only want to correct the word "program" because it has a different meaning in the case of euthanasia. Dr. Bouhler and I had instructed certain physicians to carry out euthanasia and had given them the authority to do so. Then we were to see that these patients were then transferred to these institutions in a certain method. First of all they were registered by means of questionnaires. The questionnaires contained certain formulations which were to enable us to gain a picture about the condition of the patient.

The Reich Ministry of the Interior sent these questionnaires to mental institutions and other institutions which kept mental patients in order to have them filled in. At six month intervals these institutions had to send these questionnaires back to the Reich Ministry of the Interior after they had been completed and with the corresponding enclosures. These questionnaires were sent to Tiergartenstrasse 4 to this office which has previously been described, the Reich Association for Mental Institutions. There the originals of the questionnaires were filed and photostats of them were sent to three specialist physicians who were completely independent of each other. These specialist physicians then made a diagnosis on the basis of the available information; and they made their decision either by a negative or a positive statement towards the patient. In a case where the questionnaires were sent back to Tiergartenstrasse 4 showing a three-fold positive diagnosis then they were submitted for further decisions to a chief expert who by himself now again dealt with the question.

It may perhaps be important to point out that these experts and chief experts were specialist physicians; that they were directors of large mental institutions and nursing homes; and that in part they were professors in German universities. Even if the chief experts

decided positively for euthanasia, then the connection was established with Dr. Linden of the agency of the Reich Ministry of the Interior, which, by virtue of its superior status, now instructed the mental institutions to send and to transfer these patients to an observatory institute. They were then transferred there with all their case histories and documents so that this institute was able to obtain its own diagnosis and obtain its own picture aside from the questionnaires and documents which had been submitted. Even if the physician in charge there expressed himself in favor of euthanasia, another order was sent to Tiergartenstrasse 4 and another agency; and from the last mentioned agency again as a superior office, from there the order was issued to transfer the patient to a euthanasia institute. In the case of the transferring of patients, the previously mentioned transport for Patients Company participated. That was an office subordinated to Tiergartenstrasse 4.

In this euthanasia institute the doctor in charge there had to make his final decision. If he wanted to have the patients subjected to euthanasia or if he had any misgivings on his own initiative, from the number of patients transferred approximately four to six percent were again returned to their original institute because with the responsibility of the physician in the observatory institutes as well as in the euthanasia institutions the physician could not declare himself agreeable to euthanasia from the standpoint of the medical profession.

In my opinion the number of two to four percent shows two indications. First of all, that when the basis of the procedure was questionnaires and diagnosis, very clear diagnosis of the patients took place; and in the observatory as well as in the euthanasia institutes the physicians who were working there were able to decide by their own initiative and responsibility. With regard to this whatever we have heard here of the action 14-F-15 is in contrast; and in my opinion it does not have anything at all to do with the considerations which had been determined by the decree of the 1st of September 1939.

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Q Do you know the meaning of 14-F-13?

A I would say I have heard the description of 14-F-13 here for the first time. Previously I have never discovered anything at all about it; and therefore I could not have any idea. As far as I can see now on the basis of

documents, it was a file mark which originated with the Economic Administrative Office of the SS. Without knowing for certain what it really means, as far as I know, it shows clearly for the first time in the ledger of the Economic Administrative Main Office, the WVHA, which called Dr. Mennecke to Berlin or to Oranienburg in order to get some more instructions and information there.

Before, when I was asked as to the connection of euthanasia to the concentration camps, I stated that I am of the opinion that no connection could possibly have existed because the patients who were included by us in this program under normal circumstances would not be located in a concentration camp. Dr. Mennecke has testified here that 14-F-13 had nothing to do with medical practice but that it was quite clearly a measure which can be traced back to racial, political reasons and that therefore it has quite a different origin.

Q Then how do you explain the connection that physicians who worked in euthanasia matters now also make their appearance in concentration camps?

A The connection is not clear to me. Of the two names which appear here, Dr. Ebner is unknown to me. Then occasionally this Doctor Schumann has made his appearance; and I do not have any idea about him either. I am of the opinion that this complex 14-F-13 under the circumstances may actually have been connected with what Reichsleiter Bouhler either expected or feared; and when he thought that the euthanasia program could arbitrarily be used by the individual district leaders for their own individual actions, in this case 14-F-13, in my opinion the decisive factor must have been Himmler because it is also shown here that he alone was entitled to decide as to the lives of prisoners, and he also always made the decisions solely by himself.

Even subsequent measures after 1941 to which I shall yet refer speak for the fact that some individual actions of district leaders did play a part in this but that in the documents pertaining to 14-F-13 the fact becomes apparent that 14-F-13 did not cover all the concentration

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camps. But this action only made its appearance in the Bavarian area and for the most part in Hesse and Thuringia. I cannot see any connection between 14-F-13 and whatever represented euthanasia to myself.

Q Now, I have one question about the extermination camp of Lublin.

THE PRESIDENT: It will be understood that the two documents offered,

Document Number 156, were admitted in evidence as the defendant Karl Brandt's Exhibit 4.

DR. SERVATIUS: Yes.

THE PRESIDENT: It occurs to me that it possibly might be of convenience and save time if the prosecution could prepare a list of the documents which it has introduced in evidence, this being in chronological order and followed by the number of each document as an exhibit; and if that list were furnished to the defendants, it would be a comparatively simple matter for a defendant to ascertain whether or not a particular document was already in evidence and consequently had been translated into English and also the exhibit number of that document. That is just a suggestion.

The Tribunal will now recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

Corrected Copy

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 4 February 1947.)

THE MARSHAL: The Tribunal is again in session.

KARL BRANDT - Resumed.

DIRECT EXAMINATION (Continued).

BY DR. SERVATIUS:

Q. Witness, you were speaking of Action 14F13. Now, something similar took place in the East, in Lublin. Did you have any connection with that?

A. I heard of these events in Lublin only here. I learned that an SS Fuehrer named Lubucznik played a role in it; I did not know the name Lubucznik. The other persons mentioned in that connection were not known to me either. I believe it was Doctor Eberle again, and the Doctor Schuhmann who has already been mentioned.

Q. Aside from these big actions other things happened; for example, war wounded are supposed to have been effected. What do you know about that?

A. In the course of 1941, Field Marshal Keitel reported to the Fuehrer once that war wounded from the first world war were being included in the Euthanasia program. He had not heard of it as an exact case but only as a rumor. The Fuehrer immediately ordered that all the evidence available on the subject should be examined. I passed on the order to that effect to Bouhler and he examined the files. That was in the early summer of '41 perhaps. It was learned that there was one clear case as follows, it was an insane person who had been drafted from the institution in 1914. He was in the army for six or eight weeks, and was released again because of his mental condition and returned to the same institution. There the case history was not started over again but the old one was continued, so that it was not clear from the documents alone that he had participated in the war. In the course of the later investigations two or three other similar cases were discovered. There was, however, no case of

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which injury incurred during the war had led to a mental disturbance, or that a disease had been caused by any event of war. It was a temporary service of the patients. I believe there were four altogether, as far as I can remember. The disease which led to euthanasia later had no connection with the war service. I know nothing else about that matter and the report to this effect was sent to Hitler.

Q. Now about those injured in work, or those who became invalids, did you hear anything about that?

A. I heard nothing about invalids nor that any such thing was mentioned.

Q. Did you not receive reports in this connection from institutions in Pomerania?

A. In 1944, '45, I cannot state exactly whether it was '44 or the beginning of '45, at brief intervals I heard from security servicemen working in the chancellory in Berlin that in two cases in Saxony and in one case in Pomerania, euthanasia was again being carried out in mental institutions. I informed Bouhler's office immediately. I reported to the Fuehrer, and I also reported to Kreisleiter Martin Bormann, since both cases in Saxony indicated the participation of the Gauleiter. I know that the Fuehrer issued instructions to Martin Bormann immediately to have these measures stopped. Bouhler himself got in touch with the competent officers. I did not learn that these obviously limited measures were any way outside of the practice of euthanasia as it existed up to 1941. In other words, they were really seriously ill persons.

Q. Then you were led only by medical points of view in euthanasia?

A. I was concerned only in purely medical measures and considerations clearly arising from the decree itself. I, and as far as I know, Bouhler, never intensified this euthanasia in anyway, on the contrary, if anything seemed questionable the fact that it was questionable led us to conclude that this was a reason against execution.

Q. You spoke of the procedure, is it true that a questionnaire form would be basis for it?

A. First basis was a questionnaire.

Q. I shall show you such a questionnaire in document book 1696 PS, will you please comment on it.

(Document handed to witness.)

THE PRESIDENT: Has this document already been received in evidence, counsel?

DR. SERVATIUS: I assume so. It is in the document book. There are several questionnaires, all with the same contents. I assume that it was offered in evidence. It is on page 209, part 2.

A. The questionnaire indicated, gives indications for determining the disease. There are general registrations, whether the person is a twin, whether there are insane relatives, and then an indication about previous history, the course of the disease -- .

Q. Witness, just a minute.

DR. SERVATIUS: It is Exhibit 357.

Q. Witness, will you please continue.

A. There is a note that in every case there are adequate indications of the mental condition they are to be added. We are getting individual diseases which are mentioned, Schizophrenia, in addition to the condition, whether it is a fresh attack or a final condition. The reaction to treatment is also asked for. And then there are similar subdivisions under feeble-mindedness, epilepsy. There is a question about the treatment itself, and it is asked when treatment was carried out, whether there was permanent success or not. Then, it is asked about crimes as to be evaluated in judging the condition of the patient and it is asked about the value of the work of the patient.

Q. What was the purpose of this questionnaire?

A. The purpose of the questionnaire was the indications given in it which were given by a specialist were to give a picture of the disease to another specialist who was to judge the case.

Q. Do you believe that this questionnaire is adequate? Don't you think that it is too superficial to form a final judgment?

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A. The questionnaire alone would probably not have been sufficient for a final judgment, it was necessary for the records of the patient himself to also be consulted but this was certainly done in critical cases by the chief expert. And when the patient was transferred the observation institution had all the records and the patient himself was observed so that there were various opportunities for control.

The other documents were added to the questionnaire to help in understanding the entries. Then it was indicated whether the person was a foreigner or not.

Q. Now, witness, the question of crimes is included here and it is asked about paragraphs 51 and 42b of the Penal Code.

A. I have already pointed out that these questions were designed to have a standard for judging the condition of the patient himself. As it was similar to the questions of the employment of the patient, it was not intended to form any legal judgment on the basis of this information.

Q. The questions about the patient's ability to work, was the purpose of that to remove persons incapable of working because they were incapable of working?

A. Euthanasia was not intended merely to remove human beings. It was designed to free him from his sufferings. It had nothing to do with his ability or inability to work.

Q. Then if I understand you correctly, these symptoms of mental deterioration, that he can no longer work, or that he has been a criminal --

A. They are to be evaluated in this connection, but they have only a partial influence on the decision. The decisive thing is the entire, the whole condition.

Q. Witness, how was the responsibility of the doctors concerned with the questionnaire divided?

A. Every individual doctor was responsible for what he did in the course of those measures which led to Euthanasia. Each doctor was absolutely responsible for his judgment. The chief expert was also responsible, and the doctor at the observation institution, as well as the doctor in the Euthanasia institution, were also responsible. It must not be assumed that the doctor involved in these measures would have been obliged to carry out Euthanasia if he did not agree

on the basis of his own decision. He had the right and the duty, if he did not approve, to refuse to carry out Euthanasia.

Q. Well, what did these powers mean to the doctor? Didn't this put him in a special situation?

A. First of all the doctor was given enormous responsibility. It was not only a responsibility in view of his right to decide about life and death, but was also burdened by the fact that he was responsible for the continued suffering of this human being. One must mention this in order to make clear the extent of the responsibility.

Q. Now, was the responsibility on one doctor alone, or was it divided?

A. No, the responsibility belonged to each person who was concerned. I estimate there were ten, fifteen, perhaps even twenty experts who, according to instructions and directives which they had received, together with the chief expert, had carried out their activity.

Q. Were these experts independent of one another?

A. The experts worked completely independently of one another, and that was how it was intended from the beginning. Not the questionnaires, but photostatic copies of them were sent to the experts so that none knew what the others had decided.

Q. Did you help to select the experts?

A. They were suggested by the Reich Ministry of the Interior and Bouhler assigned them their duties.

Q. Did you negotiate with them?

A. No.

Q. Did you instruct them?

A. No.

Q. Was there any appeal?

A. No, there was not. It was our opinion that since each judgment was independent, each successive judgment was a type of appeal, and we saw in this measure a sufficient safeguard against any excesses on

failures of the system which might otherwise have occurred. And besides, because of the necessity for secrecy, no other appeal procedure was possible.

Q. Did not the physicians involved have any legal misgivings?

A. In practice they no doubt did not; otherwise they would not have been able to participate. If they did have legal misgivings, they were certainly dissipated by the entire nature of the procedure itself. First they were instructed about Euthanasia in the Fuehrer's chancellery by Bouhler himself. They learned that the Reich Ministry of the Interior was connected with this measure from the beginning to the end. The Ministry of the Interior had recognized the decree and acted according to it. It supplied the necessary information. It assigned the physicians. The questionnaires went through the offices of the Ministry of the Interior and later through those of the provincial governments. The institutions themselves had been supplied by the Ministry of the Interior. The Ministry retained its position superior to the institution. Registration offices had been arranged in the euthanasia institutions and the physicians knew that the Reich Ministry of Justice was informed. The financing of the whole thing was clear and regulated so that the doctors certainly had no justification for having legal misgivings.

Q. And what do you yourself think of the question of legality?

A. One decisive point for me, perhaps, was that the head of the State himself had given me this assignment, and I certainly could not expect that I was given such a decree for any criminal action. And at a subsequent time for me as well as for the others, it was soon that everything was done as if everything was in order, and it was in order as far as we were concerned.

Q. How about the question of the approval of the patients? The Insane?

A. The question of the approval of the insane was disregarded.

The point of view was that the insane person himself is in no position to judge his situation. These were not persons with light cases, but the worst ones. For this reason since the patient lacked understanding of his own situation, there could be no question of approval. If one were to say that the patient gave his approval, that means exactly if one says he did not approve. In individual cases where this question of euthanasia was discussed with mentally healthy persons; sane persons, the point of view was gained that the patient cannot decide about himself, but that the decision must be left to the doctor alone. Through momentary pain the patient may be so deceived, just as through a relative comfort he may be deceived about the severity of his disease. Here one can judge only on the basis of the diagnosis, and considering the condition and the prognosis, and only the doctor can reach the decision. It cannot be left to the patient himself.

Q. Than what about the approval of the relatives?

A. In the case of the insane, the consent of the relatives was not obtained for similar reasons. First of all, the question of secrecy was important. But more important from the medical point of view was the fact that the layman is not able to judge the condition of his sick relative. He lacks knowledge of the disease. From actual criminal considerations he could not give his consent. He can be deceived by uncritical pity, and actually the relatives were not considered in this respect. Another decisive point was that one cannot expect a relative to decide about the life or death of someone else. It was the opinion that the doctor, with the support of the state, has to take the responsibility.

especially in the case of insane persons. The relatives frequently are inclined to give their consent to Euthanasia. There is an indication in literature where in about 160 questions to relatives of idiotic children, 140 parents can consent. Also the many appeals and approvals within the Euthanasia complex showed the attitude of the relatives toward the patient, but this is no reason for giving the responsibility to the relatives, who are unable to bear it.

Q What was the purpose of secrecy, was there something to be concealed?

A The secrecy was certainly demanded by the Fuehrer for political reasons; mainly on account of the internal political situation in connection with the question of propaganda, and so forth. I do not believe that inner politics was the decisive thing; some solution could be found in that respect. Final resistance from the churches, for example, could not be obtained permanently.

Q Now, witness, I show you a letter from the head of the Mental Institution, a Mr. Schleich. It was Document No. 520, Exhibit 374, Document Book 14, Part 3. This is a letter to the Reich Minister of Justice, in which this head of a mental institution objects to the procedure. Please read the letter and comment on it.

A The letter from Mr. Schleich to the Reich Minister of Justice points out that among the people there is great uncertainty in connection with the removal and the death notices about insane persons. "Is it possible," the second paragraph says, "that such a measure is being carried out without such a law having been proclaimed." And then it goes on, "In consequence of the complete secrecy in which these measures are being carried out not only do the wildest rumors go about among the people (for example that also people unable to work on account of age or injuries receiving during the first world war have been done away with or are to be done away with). But also the impression, --- I shall skip a little --- as if a totally arbitrary manner prevailed at the selection of the persons concerned."

Q Do you consider the attitude of the author of this letter correct?

A I consider the attitude of the author of this letter as absolutely correct. If a physician who is in charge of an institution has no idea of what is actually going on, in my opinion it was his duty to inquire of the competent officers whether something unjustified was not being done. From the Documents, which have been submitted here --- this is the only letter of this type --- one should really wonder that no more of such letters were handed in. The necessity for such letters arose from the awkward attempt at secrecy which was not practicable. The letter was also interesting because it refers to rumors arising from the lack of clarity. I said before that in the case of the war wounded, there was something of the same kind.

Q Were there any similar complaints?

A I myself saw few complaints. I learned of others from Bishop Gahlen in Kuenster; and from Martin Borman I learned of the letter from the Bishop of Wurm. I know, and the Documents will show, that a large number of other letters were received which were sent either to Bouhler, to the Reich Minister of the Interior through Minister Lammers, or the Reich Minister of Justice. In any case, they were sent to the nearest agency. As far as I know, only the letter which I have mentioned before from Gahlen and from Wurm were referred to Hitler himself. Whether he learned of them later on, I do not know.

Q Did you hear of any other objections, rumors or complaints?

A I heard about complaints and objections, first, in the course of 1940

through Dr. Boehm, who was connected with a small group of physicians who went to see Martin Bormann, who came to see me. He expressed his objections to the secrecy and he spoke of the rumors which I have mentioned. Then, later I was in contact for the same reasons with Pastor Bodelschwing of the Bethel Institution. I had several talks with Dr. Bodelschwing. He came to see me and I went to see him at Bethel. My contact with him was not on an administrative plane. It was our mutual need for discussing these questions. The consideration of secrecy was discussed by the two of us. The question of legality of Euthanasia on principle. We observed that there were no clear indications in the document itself, and that that could be explained by the fact that the Christian Church is opposed to these ideas. It was mentioned to a man like Luther; he was of the opinion that such deformed children should be drowned. It was said that the solution of this problem is less theological, but rather not so right, or -- the concept of pity was discussed. Talking to Pastor Bodelschwing in Bethel, I visited patients with him. We were in the Children's ward and after that we discussed the individual children, not as to whether we should actually subject this particular child to Euthanasia or not, but as to whether such a creature is still a human being, whether it has any feeling itself. I recall children of eight or ten years of age, who were really nothing but a pitiful, miserable creature. Children known as "head cases" could not even sit up, with an enormous head and a tiny body. And Pastor Bodelschwing also felt it is a blessing if such pitiful creatures are (pause) -- if an end is put to their lives.

We were not always of the same opinion, but it was possible for us to respect each others' views and to understand each others' views. Pastor Bodelschwing is of the opinion that if a legal regulation of this question was publically made, the decision of the state would have to be binding on all, of course. That had no connection with the fact

that innerly he was most closely connected with the church, and that he saw even in the most pitiful creature, a human being.

Q. Now, it was stopped. Execution of Euthanasia was prohibited. What was the reason for that?

A. The talks which I had with Pastor Bodelschwing were perhaps not the final, decisive element in this, but there were quite a few other considerations, misgivings which had arisen meanwhile from the question, and so forth. But the responsibility of the Church did play an important role in having Euthanasia stopped in the summer by the end of August, 1941.

The Fuehrer gave me orders to act on these instructions and from the Headquarters I immediately passed on the news to Dr. Boehler and he did whatever was necessary. That is, the Euthanasia institutions were in this case given the order, through the Reich Minister of the Interior, that there was to be no further Euthanasia.

Q Could you yourself not have stopped it sooner?

A I believe that objections or opposition from me would not have been sufficient to stop it. Far from that I approved Euthanasia in the for I have described it. The question at issue was the matter of secrecy.

Q Now, was the idea of Euthanasia given up completely?

A No, after the end of the war Euthanasia was to be resumed, and was to be carried out further.

Q What was the effect of this stopping of Euthanasia for the organization?

A Aside from the fact that no more Euthanasia was carried out in the Euthanasia Institution, there was no further consequences. The questionnaires continued to be sent in at six months intervals. They continued to be registered and evaluated, but nothing else was done about them.

Q Now the Reich Committee for Deformed Childrens interest, was that also effected?

A No, the task of the Reich Committee was not effected by the stoppage.

Q Was there a definite problem in the Reich Committee as in the other Euthanasia institutes?

A No, the procedure was not the same. The questionnaires in which certain entries were to be made about severe malformation, Schmidt had referred to these committees. These questionnaires were sent to the Reich Committee, which was subsidiary to the Reichsministry of Interior; from there they were coordinated with the necessary other documents; they were filled out by midwives, and doctors, and maternity hospitals. The purpose was that such deformed children were reported and were sent to the special institutions.

Q And to whom was the authorization given?

A In concert with Euthanasia, which had been mentioned before, the authorization was connected with the individual child; there was no general authorization that tested a case. Authorization was requested and was given.

Q How does the consent of parents as to being necessary enter?

A The consent of parents was necessary. The consent had to be obtained sometimes through the official position, and sometimes through the institution which reported the case, and it was Mr. Linden's task to get these documents together..

Q And what about letting these children starve to death. Now, did you learn anything about that?

A No, I do not believe it in that form. I believed that it was the manner of malformation in the inner organism which caused complications. I never learned anything about children, or cases of children or adults where instructions being given to let these patients starve to death. The food rations given to these institutions in my opinion were exactly the same as given to the normal consumer. Since they were not acutely sick persons, there was the idea that it was not necessary to give them special rations. The concerns had to send food rations as to the nurses, doctors, and so on.

Q You said before that this procedure of the Reich Committee was not effected by the stoppage which was put to Euthanasia?

A No.

Q Was it continued to the end of the war?

A In the year of 1944, in the second half of 1944 Mr. Bouhler informed me that a clear execution, which were difficulties of correspondence for technical reasons, was hardly possible, and he asked us for this reason that Euthanasia be stopped here as well. In 1942 since I was no longer tied down, I gave up my authorization. I did not learn that afterwards, after the stop of 1944, any further Euthanasia approval was given for children.

Q If I understand you correctly, the reason for stopping the activity of the Reich Committee was the technical reason of the general postal conditions at that time?

A Yes.

Q Did you work in this procedure until the end?

A No, in 1942, as I have just said, I gave up the authorization

which I had received since I was no longer so easily available, as would have been necessary.

Q Now, Witness, if you consider this whole Euthanasia problem as a whole, is there not something horrible about it?

A It has the appearance that it might look horrible, it can look inhuman, but in this light in the execution itself was not considered from that actual point of view alone when you consider what is behind it. The human beings who cannot help themselves, and whose tests show a life of suffering are to be given aid. This consideration is not inhuman. I never felt that it was not ethical or was not moral. I know that the external circumstances at the execution in spite of this sector of secrecy, and that went through the sector of secrecy, regrettable instances occurred repeatedly, irrespective of all endeavors to prevent them by the authorities. It has been said here that two urns were sent to one address. It was said that because of past diagnosis difficulties arose at the death, which is regrettable, but that this does not effect the principle, and in my opinion cannot shake this principle. If one discussed the problem of Euthanasia openly, and tried to form a basic understanding, a basic mutual understanding of the fact, then in my opinion a way may be found for such execution in the future. The problem on such is not new. It has always been interested, and has been discussed for centuries. A Professor Leibbrandt mentioned the oath of Hippocrates. That means that part of it which calls upon the doctor to not to give to a patient poison even on the patient's request. This is a dogma which is the basis of our science of diagnosis today, and our knowledge of prognosis, and the knowledge of the limits of therapy, can no longer be maintained in this form. I am convinced if this Hippocrates were alive today he would formulate his oath differently. Hippocrates was not a man who did not give life its due. In Athens about the year of 430 there was an epidemic, and Hippocrates was asked for aid. He gave the simple instruction that the patients should be left alone, nothing could be done for them. He did not do that because he had any idea of the prognosis, or the

infection, for he had walls built to keep the wind out of the city; no, he did that simply from the feeling of what is health and what is sickness. You see, the Hippocrates oath is also cited today, and it is said that patients and sufferers are not to be given any poison, and a doctor who declares and asserts such a thing, that is, either a lie, or a hypocrisy. There is no doctor today who does not give a suffering patient narcotics, and tries to make the final hour of a dying person easier. One can say that is not euthanasia. In any case it is against the oath of Hippocrates. It begins by not giving the patient who is expected to die any more heart stimulants.

The next step is to give him narcotics. One may hang a copy of the Oath of Hippocrates in one's office but nobody pays any attention to it. The patient expects the doctor to help him and the relatives also expect it and I may mention in this same connection that since I have read in a newspaper that the sick person was finally released from his suffering. But these thoughts have nothing to do with the concept of demonic order which Mr. Leibbrandt mentioned. It is shown by the fact that today, and perhaps at this very moment, in other countries the question of euthanasia is again being discussed. The exponents of it -- churches are joining together, Evangelical and Methodist, and the physicians' leagues are joining them. I know it is said if one knows that a doctor has something to do with euthanasia then he could lose the confidence of his patient. This confidence of a patient which has once been won is not capital that one holds for interest. As I see it, the duty of the doctor is to earn it anew at every contact with his patient and the same is true of institutions. One cannot say that an institution's reputation is taken away; the institution is not there to preserve a reputation; it is there to take care of sick persons and to help them. If one speaks of institutions, one must have an idea of what that is. One hundred years ago was the beginning when the larger institutions were first opened. I remember the name of Ferrell of Zurich. But, in reality, these institutions are gold cages. One may well say that life behind these walls is the most horrible, the most unfortunate for a human being that there is. In the last few weeks and months pictures have been published in magazines which show something comparable to what has been said about concentration camps and it has even been called that. The people are not for these institutions. There have always been difficulties in the financing of them, and there is no modern state where this question is not repeatedly discussed. It is said that such a thing is necessary -- the state should be willing to supply this money and where positive aid can be given, where human beings can be given care of human beings, they should get it. And from the church side too, I should like to mention Luther again. It was often said that the

existence of an idiot is not as God intended it. It is felt as unnatural. If, in connection with our practice of euthanasia in 1940 and 1941, letters were received in large numbers which were quite understanding that is another factor in favor of it. I do not want to refer to the large amount of literature concerning Euthanasia itself. In many cases one copies from another and the problem is avoided. But one thing seems necessary to me -- that if anybody wants to judge the question of euthanasia he must go into an insane asylum and he should stay there with the sick people for a few days. Then we can ask him two questions: the first would be whether he himself would like to live like that, and the second, whether he would ask one of his relatives to live that way -- perhaps his child or his parents. The answer cannot be connected with the concept of demonic order but it will be deeply felt gratitude for his own health and the question of whether it is more humane to help such a being to find a peaceful end or to care for it further -- this answer results without being expressed. In this connection I have a reference to literature where it says about having a child with a hereditary brain disease kept alive for three and one-half years and that this creature screamed for three and one-half years. I see nothing particularly humane in this. One can say that the execution is not very pleasant and the death of a human being can be horrible, but everything in life that is biological is not pleasant -- it can be horrible and unaesthetic and unpleasant. One can say that of everything from the beginning to the end of digestion, but, in the last analysis, this constitutes life and it is necessary. An operation is not pleasant but it can be useful, and the bloody act of birth is certainly not pleasant nor is the end of life, which may last for days, pleasant. What is important is how one considers these processes. They become bearable to us and grow into what they are in reality by seeing in them something enlightening. I believe if one holds this point of view, then in the consideration about euthanasia, a poor suffering creature is included in this thought which in reality goes far beyond the limited earthly existence, that they can be included in the concept of existence altogether,

and to mention Hippocrates once more and his period when one spoke of Loges and ordering understanding, I believe that the doctor can create the necessary scientific basis for euthanasia and the theologian can work it into his work and the lawyer and the state authority can give the doctor the opportunity to help human beings, including such miserable creatures.

Q. Now, Witness, what was Hitler's point of view? Did he ask anything unmedical of you?

A. No, he did not.

Q. Do you know whether he knew anything about the Extermination 114 F 13?

A. I do not know whether he knew anything about that. I did not know this term earlier and I never heard it from him.

Q. Then did he say anything to you in favor of extermination -- anything that indicated that?

A. No, he did not.

Q. Do you believe that he knew what was going on?

A. I do not believe that Himmler carried out these measures without Hitler's knowledge. It is my opinion that he knew about it in some form. The question is whether he gave the orders or whether he gave hints so that Himmler carried them out in this form. The relationship between Himmler and Hitler may have been similar to that between Martin Bormann and Hitler. In that connection, it was certainly so that if Hitler made some statement in the course of conversation, Martin Bormann passed it on as an order from the Fuehrer. If Hitler perhaps said in conversation: "A man like Pastor Niemoller can't be let out of a camp. Such people are to be treated in such and such a way", then Martin Bormann reported to Himmler that "Pastor Niemoller is to be kept in a concentration camp for the rest of his life". It is possible that Hitler and Himmler were in a similar relationship, that -- I am basing this again on Martin Bormann -- Hitler did not actually give an order but that he knew that Martin Bormann would pass on a statement of his in this form and, on the other hand, that Martin Bormann passed on an order or a statement which

had the effect of an order.

Q. Witness, must one not assume that both thoughts were united in Hitler's mind, medical extermination and euthanasia, and that Hitler learned of them?

A. This necessarily did not exist. Aside from the fact that I knew nothing about it, it was one of Hitler's characteristics -- that events and plans and projects were kept so secret that actually only two people learned about them. I am thinking of Prince Philip of Hesse with whom he talked at the Fuehrer Headquarters. He had supper with him once and after supper he went out of the room and was arrested at the door. I am thinking of the beginning of the campaign in France. We left Berlin by train the night before toward Hamburg. Everything was arranged to go from there by ship to Norway. Even the officers of his entourage were not informed that there would be a war with France. At night near Lehrte on the way to Hamburg, the train turned and went toward the west where the fighting had already begun. It was so with many measures. Then there was no reason that more men -- the very smallest circle of people -- would know about such measures. I can say that of the circles around Hitler one person did not discuss his tasks and assignments with others unless the Fuehrer himself felt it necessary or spoke about it.

Q. Then you learned nothing through Adolph Hitler about the extermination matter?

A. No.

Q. As you consider the whole thing do you feel today that you are incriminated by euthanasia in any way?

A. No. I do not feel that I am incriminated. I am convinced that what I did in this connection, I can bear the responsibility for it before my conscience. I was motivated by absolutely humane feelings. I never had any other belief than that these poor miserable creatures, that the painful lives of these creatures were to be shortened. The only thing that I regret in this connection is that external circumstances brought it about that pain was inflicted on the relatives. But

I am convinced that these relatives have overcome this sorrow today and that they themselves feel that their dead relatives were freed from suffering.

Q. Mr. President, I have no further questions to put to the witness.

THE PRESIDENT: The Tribunal was informed at noon that the defendant Oberheuser desired to be excused at three o'clock for reasons of health. Does her counsel know whether that information is correct?

DR. SEIDL (for Oberheuser): I heard nothing about that.

THE PRESIDENT: If, for reasons of her health, the defendant Oberheuser desires to be excused at three o'clock from further attendance of the afternoon session of court, she may be so excused. Counsel may obtain information whether such absence on account of her health is desired. If it is necessary, she may be excused. The Tribunal will now have a short recess.

THE MARSHAL: The Tribunal is again in session.

May it please Your Honors, the defendant Oberheuser has taken the permission that was granted prior to the recess and is now absent from the Court.

THE PRESIDENT: Let the record show that the defendant Oberheuser is absent with the permission of the Tribunal on account of illness.

Does any of the Defense Counsel desire to cross examine the witness-defendant Karl Brandt?

EXAMINATION

BY DR. NELTE (Counsel for defendant Handloser):

Q. Witness, during your examination of yesterday, you cited the decree of the 28 July 1942. This is document NO-080, in document book Number 1, on the strength of which you were appointed Commissioner General for Health Matters and Generaloberstabsarzt Handloser was appointed to the Chief of the Wehrmacht Medical Service, and Dr. Conti received new authority. Did you participate in the origination of this decree?

A. I explained yesterday that the decree resulted from the incidents which took place in the East during the winter campaign of 1941-1942.

Q. Witness, I do not desire any repetition. I still remember that, and the Tribunal remembers it too with reference to what happened during the winter months of 1941 and why it was the cause of these measures. I am mainly interested with reference to the wording of the decree, where I am sure that you participated and which you got to know as it was originated. What conclusions can be drawn from the wording with reference to the interpretation of the authority of the individual participants? In my case, I am interested in the Defendant, Professor Handloser. That is the reason I asked you whether you participated in the origination of this decree.

A. I have seen this decree being composed, and I know the circumstances which led to it and individual sections. I know the difficulties with regard to competence which played a major part in this, but I have

not taken part in its formulation.

Q. For purposes of interpretation, it is more important that one experienced it. In a document which was not an evidential document but which was submitted to the Tribunal by General Taylor and which was basic information about the German Medical System, the Prosecution has stated that on the basis of a decree of 1942, Hitler appointed the defendant, Handloser, as Chief of the Medical Services of the Armed Forces. In this capacity, Handloser co-ordinated and supervised the activities of the Medical Services of all three branches of the Armed Forces, as well as the Waffen-SS. In this manner, he became supreme Health leader in the military field.

I am now asking you if that is a correct interpretation of the decree, the origination of which you experienced and the wording of which you know.

A. No, it certainly is not the correct interpretation of the decree. The decree stated that the newly appointed chief of the Armed Forces Medical Service wanted a uniform control and work on the common tasks. But surely no superior relationship conditions existed with regard to the chief of the Wehrmacht Medical Service with the chief of the Medical Service of the Luftwaffe, of the Navy, and of the Waffen-SS. It was likewise true with the units of the labor service, especially the difference with regard to the competence which prevented that if it had not been there, otherwise a corresponding relationship with a clear conception of thought would have existed.

Q. In that case, there was no authority to give orders on the part of the chief of the Medical Service of the Armed Forces?

A. No, no military relationship with regard to issuing orders existed with the Wehrmacht chief of Medical Service toward the Navy and Luftwaffe, and after all, the text is different from the formulation.

Q. Words like "steering", "leading" are sometimes misleading, and you, yourself, have said that the purpose was to coordinate all of the tasks which applied to the Wehrmacht. Now, I want to ask you how that was actually achieved. How was the inclusion of this new office actually carried out in effect. Was any assistance necessary from all sides or how was it in reality?

A. In reality, for the time being, it did not have any effect whatsoever as far as the chief of the Wehrmacht was concerned. I pointed out yesterday that Keitel was circumvented by the chiefs of the Luftwaffe and the Navy and so on. As a result of this the same thing applied to the leadership of the Medical Services because the official status of the chief of the Wehrmacht was dependent on the chief of the Medical Service of the Wehrmacht. It also would have been the normal way to have a direct way to go to the centrally located chief of the Wehrmacht Medical Service, and the further way to go to the directing agency. In order to represent common interest with regard to the fulfillment of the tasks, it is always difficult to define. It can also be explained and it was not mutual as far as medicine,

Aviation medicine, which is a task of the chief of the Luftwaffe. Thus, like certain tasks of the Navy, in the medical field also were located with the then Raeder, but outside of the field of competence of the medical chief of the Wehrmacht.

Q. According to the decree of 1942, the research system fell within the framework of the mutual task?

A. As far as I know, research was not mentioned at all in the decree.

Q. Do you know the size of the working staff of this new Chief?

A. Yes, I knew it.

Q. Was it large or was it small?

A. It was very small, very few people.

Q. During the presentation of the Prosecution case, no differentiation was made between the decree of No. 2 and the decree of No. 44. The chief of the Medical Service of the Armed Forces is continually being mentioned. The impression may be created thereby as in 1944, that is on the 1st of September there was just a little unimportant organizational extension of an already existing agency. Would you please tell me what was the real reason which led to the extension of the jurisdiction of this chief?

A. Of course, it was the requirements of that period. In the last phase of the war it became necessary to concentrate everything that was possible. On the other hand, it was necessary, -- and that may be the decisive part of this decree -- that through this second decree of the chief of the Medical Service of 1944, this position was separated toward other offices which Generaloberstabsarzt Handloser occupied as Army Medical Inspector.

Q. With reference to this decree which was brought into effect in December 1944, were any effects possible?

A. It did not have any practical effect any more because at this period of time the possibility of effect of any decree became practically nil. I believe that this was about six or seven months prior to

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the end of the war. In any case, it could not have a decisive effect any more.

Q. Would it not have been of importance in that regard, that this very minimum of a staff, as you described it, was newly extended and had to be extended?

A It falls within the same frame work which I have just hinted. During that period of time such a measure of time was not possible any more. I personally experienced the development of that office beside my own office, and I know exactly the difficulties which arose at the time which made the fulfillment of their task impossible.

Q At what period of time was your office, Science and Research, practically put into effect?

A From approximately the middle of February 1944.

Q Do you know whether General oberstabsarzt Handloser belonged to the Reich Research Counsel?

A I know that he was not a member of it.

Q You know Generalstabsarzt Schriber; do you not? You mentioned that he belonged to the Reich Research Counsel as a Plenipotentiary for combating epidemics. Was Schrieber in that capacity, subordinated to Generaloberstabsarzt Handloser?

A He was subordinate to Handloser. I said this morning that the members of the operation staff of the Reich Research Counsel were subordinated to Goering personally, and thus they could not be subordinated to anybody else.

Q Do you know that Generalstabsarzt Schrieber exercised a double function. And I am putting the question to you for the reason - because I want to know whether Schriber had to report to Handloser in his capacity as Sanitary Inspector?

A I do not think so, I don't think he had to do that, and I don't think he did it.

Q Do you think he was allowed to do so?

A In my opinion, he would have then had to obtain the permission of Goering.

Q Very well, did you ever discuss experiments on human beings as they were carried out in concentration camps with Generaloberstabsarzt Handloser?

A No, I have not even hinted at them.

Q Professor Leibbrandt at one time mentioned Doctor Bernhardt as an

Oberfeldarzt of the Armed Forces, and in order to clarify this point, I want to ask you what control did Dr. Bernhardt exercise. What was he in relation to Handloser, and to the chief of the Armed Medical Service?

A As far as I know Doctor Bernhardt, as far as the Wehrmacht was concerned, belonged to the Air Division at Muenster. He was a member of the Luftwaffe. He was from there assigned to a certain task or he was classified as essential. At least he was working in the agency of Doctor Conti in the Reich Ministry of Interior, and there took over the mental functions. I have never heard anything about it.

Q So that in this case, there was no connection with the chief of the Medical Service?

A No.

DR. NELTE: Thank you. I have no further questions.

BY DR. PRIBILLA:

Q Witness, Brandt, you know the defendant Professor Rostock, and have known him for some time?

A Yes.

Q Were you active on the same clinic as he was?

A Yes.

Q And you went with him to Berlin, and you were then the Oberstabsarzt in that clinic, actually exercising that position until the beginning of the war, yes?

A I did not exercise that position practically during the war, although I was at the clinic and continued my work there.

Q But, even before the war, you were already escort physician of the Fuehrer, and your duties were performed at the clinic in so far as your activities as escort physician to the Fuehrer permitted?

A Yes, that is from the beginning of the war in 1939.

Q The situation changed in as much as you were more or less permanently outside and only on occasions visited the clinic?

A Yes.

Q During that time from 1939 to 1943, did you frequently see Professor Rostock?

A No, I met him on occasions. During the first part of the war he was always continually outside of Berlin, so that little personal contact between us existed.

Q Whenever you did meet him, and that is from the time of 1939 to 1943, did you then inform him about your activities as escort physician to the Fuehrer?

A No, I did not inform him about any details.

Q Did you inform him about your other activities, for instance, in connection with the Euthanasia program?

A No. The only subject of which I informed him was in the preliminary work which was connected with the sick transport and other latter hospital facilities.

Q For what reason did you not inform him about your authority and activities which you exercised?

A That was in the fundamental part of the orders which I received, which I was not even able to state to Rostock in detail. It was necessary for me to keep this thing to myself and to only inform those who were immediately effected by them. That was a directive which we always strictly complied with, and which applied to all of those who were in the close circle around the Fuehrer.

Q If I understand you correctly, there was a concrete order to that effect, namely, to keep everything secret?

A Yes, secrecy by all means, yes.

Q And, you personally felt, yourself, obligated to carry out that order, even toward your acquaintances?

A Yes, naturally.

Q Now, through a decree of the 17 of August 1942, and that is Document 080, Exhibit No. 5, did you receive certain coordination tasks on the economic field between the civilian sector on one side and the military agencies on the other. You know the decree?

A That is a decree which also simultaneously appointed me General Commissioner, yes.

Q And, that was in August 1942?

Q. In order to exercise these tasks did you institute a new office?

A. Not in the beginning. At the beginning I exercised this activity from the Fuehrer's Headquarters and only had a mail connection with the Reich Chancellery, but then I did not have any further office.

Q. With reference to this activity which started on the basis of the decree of 1942, did Rostock take over any official activity for you?

A. No.

Q. And then in September 1943 the second decree was issued, and that is Document 081, Exhibit No. 6. On the strength of this decree the co-ordination tasks were extended and you were given the task of co-ordinating the various interests, that is, in the field of health services, and, as it states in the decree, you were to steer these matters according to directives or by way of directives. How could that have been understood, judging from your knowledge at that time?

A. I myself received certain directives and I had been given the authority by virtue of the same decree to appoint deputies. With reference to Rostock, in the course of the subsequent time, on the occasion of the second decree, he took over the office for Science and Research again by virtue of the directive which I gave to him.

Q. You already previously stated a number of tasks which were taken over on the basis of this decree. I shall not revert to that once more. Later, in connection with the office of Rostock it will again be clarified. But I want to ask you very concretely whether, on the basis of this decree, there was any directive from which could be seen that you had to deal with research, that is, concrete research assignments or research fields?

A. No, these were not concrete fields but in the beginning we were dealing with fundamental questions of the higher schools, which Rostock was to handle. That was the maintenance and continuance with regard to students as well as with regard to teachers. Of these tasks there is perhaps one which I could name now --collaboration with the Office for Planning and Economy, which dealt with matters and saw that these supplies were set according to medical viewpoints. It was a fixed task for Rostock which arose from the office of Planning and Economy.

Q. Witness, if I understand you correctly, I can conclude from your answer that you were concerned with general questions but were not concerned with any concrete assignment of tasks in the field of research?

A. No, there were no concrete tasks in the field of research.

Q. You already mentioned, witness, that you chose Rostock because he was a scientist and you gave him the task in order to maintain scientific levels in Germany and you mentioned the differences with other agencies which you experienced. How did it come about that you managed to choose Professor Rostock as your collaborator? Was there any political intention, any tactical intention, in connection with that?

A. I selected Rostock because in my official position I wanted to have men to represent my two office groups who could certify to the outside that this was a medical office. I initially selected Rostock because he was a professor at the University and because I knew him; any political considerations did not play any part whatsoever. If they had played a part I would probably not have selected Rostock.

Q. Witness, my question was not quite answered. When I asked you whether you had any political reasons, then I could also have meant that you either wanted to choose a specially active representative of National Socialism or that you wanted the contrary.

A. In connection with Rostock there was no question of any political considerations. Rostock was a strictly non-political person. He did not pursue a political extreme in any way.

Q. I would like to frame my question even more concretely. When giving somebody this task, didn't you want to give it to some non-political personality in order to establish a counter-balance against Conti, etc?

A. This fact already resulted out of my position because when I selected Rostock for this office of Science and Research I was already engaged in a severe struggle with the political exponent, Dr. Conti.

Q. And the line pursued by Conti was in contradiction to a scientific and medical purpose?

A. It had nothing whatsoever to do with it. These were two different worlds.

Q. The work in your department, Science and Research -- did that already start in December 1943, or only later?

A. No, it practically began in February 1944, when this branch agency for this agency at Belitz was ready, so that we could both move in.

Q. It is correct that Professor Rostock, up until the end of the war, continued his activity as dean of the medical faculty and the leadership of the Surgical University Clinic in Berlin?

A. Yes.

Q. Isn't that in contradiction to the tasks which you had given him? Didn't you want him to remove himself completely from that activity?

A. No. I have already just stated that I had selected Rostock because he was dean of the medical faculty of the University of Berlin. I wanted to occupy my office with a clear exponent of the higher schools of learning so that this office would not be brought into a manner of acting as was the case with other political offices. I also wanted Rostock to continue directing his clinic. I have stated that I also remained in this clinic for the same reason, in order to clearly emphasize the medical aspect.

Q. So I may summarize that you approved the continuance of Rostock's activities right from the start?

A. Yes.

Q. For you, as Commissioner General for Medical and Health Services, were there other fields of work which were not included and worked upon by the Department of Science and Research and the other office?

A. Yes. For me there were decisive tasks which I had to handle myself and with which the just previously mentioned offices did not have anything to do.

Q. With reference to these tasks which were not included by these two just mentioned offices, but which you worked upon yourself, did the program of the combatting of chemical warfare agents -- was this program included?

A. Yes, that also was included.

Q. Did you personally work on these questions or did you have any collaborators?

A. Within the combatting of the chemical warfare agents I handled all these questions by myself. My collaborators were not from my office but they were from establishments which until then had occupied themselves with these problems. There were certain offices of the Speer Ministry and there were individual men from the proving grounds, there were responsible people from air raid precaution system, etc.

Q. You at least informed Rostock about these tasks which you kept for yourself?

A. I did not bother him with them because Rostock had so much to do with the clinic that I was glad when I could devote all my time to these other tasks. He did not receive any further information from me.

Q. Now if you were informed about one of these fields, and I am, for instance, thinking about the information given to you by Dr. Sievers about the results of experiments of Professor Hirt with reference to Lost damages, didn't you then inform Dr. Rostock about this question either?

A. No, I did not inform Rostock about that.

Q You received yet another authority and that was in March of 1945; you were to summarize medical questions within the Reich Research Counsel. Will you please once more confirm that this was actually in March of 1945?

A It certainly was in the year 1945; it may be that it was in April when I received this decree, which was signed by Goering. In any case, in this connection I did not answer nor did I do anything else, because at that period of time Berlin was already located within the zone of operations.

Q Were you informed by Rostock, as the head of the Science Research, anything from which you could conclude that the office of Rostock received knowledge about experiments on human beings? Do you remember any such information coming to you?

A I had not received any information of that kind from Rostock, however, I am convinced that if he had had it himself, or if he had known anything at all about that, he would have informed me of that fact at that time. I want to conclude that he did not know anything at all about them. I did not discuss this problem with him and I have only, with regard to experiments, discussed the program of animals with him, which had been detailed and bequeathed to him by some institute. In any case, we did not discuss any experiments on human beings.

Q Would it have been the duty of Rostock to inform you of such matters if he had come to know about them?

A He certainly would have informed me. It would also have been his duty to inform me as he was my subordinate in this case.

Q And you can confirm that from the practice that when you collaborated in such a case, you would have been informed by him?

A I certainly would have been informed by him.

Q Thank you, I have no further questions.

THE PRESIDENT: Papers to the Secretary General.

DR. SEIDL: Counsel for the Defendants Gebhardt, Oberhauser and Fischer.

BY DR. SEIDL:

Q Witness, yesterday when you discussed the Sulfanilamide Experiments, you mentioned penicillin; what did you mean by that?

A I mentioned penicillin in order to express the fact that we, in Germany, in the years from 1941 to 1942 reconsidered Sulfanilamide as the therapeutical medicine, which was discussed wherever doctors assembled; similarly as on the other side the problem of penicillin was taken. I only meant to make a comparison in this way.

Q And on that occasion you mentioned Professor Krueger; is it correct that Professor Krueger was the consulting surgeon with the Army and Navy in Research?

A Professor Krueger was consultant physician with the Group South and Group Center in the East. I have at one time seen him in the vicinity of Posna and I had also visited him later on. He was problematical personality and from the very beginning he had decided himself for a certain Sulfanilamide drug at a period of time when the effectiveness of Sulfanilamide for prevention of injuries did not seem secure. For this reason, he was combatted in his opinions because it was believed that the younger medical officer depends too much on the effectiveness of Sulfanilamide and as a result of this might neglect the necessary treatment of the wounds.

Q Professor Krueger was then the representative of the groups, which attached a special importance to Sulfanilamide when combatting wound infections contrary to other groups, which were of another opinion?

A In contrast to others, yes. At the time, the opinions were still completely experimental and the effectiveness of Sulfanilamide had not as yet been determined.

Q Yesterday, you spoke about the difficult situation of the German troops in Russia during the winters of 1941 and 1942; will you agree with me when I say that in view of the experiences of that winter the question of the effect of Sulfanilamide was a military, medical problem of the first degree?

A I agree with this concept.

Q I have no further questions.

DR. WEISSGERBER for Defendant Sievers.

BY DR. WEISSGERBER:

Q Witness, this morning you told us that you saw the Defendant Sievers one single time and that you spoke to him then; is that correct?

A Yes.

Q Did you know his official position?

A No, I did not know his official position.

Q Did you know that an institute for military science and research was affiliated to the office of Ahnenerbe?

A No, I did not know that.

Q When talking to Sievers that one time, did Sievers then tell you that he had an order to speak to you about the Lost Research work of Professor Hirt?

A No, he told me that he had the order to give me this final report about the Lost work of Professor Hirt and he had to do that by order of Himmler, but he did not say he had the order to discuss the contents of these matters.

Q At that time was any mention made about any other experiments?

A No, we did not discuss experiments at all. Sievers merely handed this report to me as the final report of Professor Hirt regarding Lost treatment; as such there was no further connection.

Q You knew that Sievers was not a physician?

A I had to assume that immediately, otherwise he would have approached me in a different manner; I did not know him and I did not have any conception whatever where he came from; what agency he came from and I did not ask him about it.

Q You, therefore, had no reason whatsoever to discuss any experiments with him?

A No, I did not speak to him about that.

Q Did you know Professor Hirt?

A No, at that time I did not know Professor Hirt?

Q But later you became acquainted with the official position of Professor Hirt?

A Yes, I was told he worked at Strassburg University.

Q This morning you spoke about the military necessity of the institution of a skeleton collection and you denied that necessity; would such a necessity be confirmed under different points of view?

A From the point of view of a scientific interest it would be correct if skeleton collections were made. I know of very extensive collections which are affiliated with every anatomical institute. In particular, I know of a large collection at the Museum in Berlin. These are really purely scientific interests, but certainly not military interests.

Q Could a layman, a man who is not a physician, make the decisive judgment about the necessity of such a collection?

A I cannot answer that question.

Q I have no further questions.

BY DR. FRITZ: (Defense Counsel for Defendant Rose)

Q Witness, did you know the defendant Rose before the 8th of May 1945, that is , before the collapse.

A Yes, I spoke to him once. I met him once, yes.

Q Did you ever have any other official connections with the defendant Rose as are mentioned in his affidavit of September 1946 which is Document 872, Exhibit 408?

A I only had two dealings with Rose, and since I don't know what document you are speaking of I think that we are there concerned with malaria treatment of paralytical questions, and then again there were nourishment questions concerning the same persons. I think these are questions where I dealt with Professor Rose.

Q Did you at any time speak to him about any points as were mentioned by the prosecution before May 1945?

A No.

Q Did you have any correspondence with him or did you deal with him in any other form directly or indirectly?

A No, neither directly or indirectly, nor by way of writing.

Q Did you ever see the defendant Rose as a participant in a discussion where the points were discussed which are here under indictment or where reports were made on those points?

A In order to answer this question, one would have to assume a common participation in such meetings, but I cannot remember any one occasion where I saw him or spoke to him. I said this morning what meetings I attended. If Professor Rose also attended these meetings it is certainly possible that I saw him, but certainly we did not establish any contact or speak to one another.

Q Witness, you were just speaking about meetings. I meant conferences, discussions. Meetings usually mean to describe larger congresses.

A I had no discussions whatsoever where Rose was present or where I met him. I cannot remember that.

DR. FRITZ: Thank You. Mr. President, I have no further questions.

BY DR. KAUFMANN: (Defense Counsel for Defendant Rudolf Brandt)

Q Dr. Brandt, I have one single question to put to you. The prosecution designates the defendant Rudolf Brandt as the so-called special referent of Himmler. Would you agree with me if I say that Rudolf Brandt was everything but a counselor of Himmler in matters which are the subject of this trial?

A That is my conviction. It is my conviction that first Himmler did not accept any advice in his questions on principle because had this been the case, such matters would not have been dealt with by him, and I am quite sure that Rudolf Brandt in particular would not have been in a position to give any advice to him. He would not have tolerated it.

DR. KAUFMANN: Thank you. I have no further questions.

BY DR. SAUTER: (Defense counsel for Defendant Blome)

Q Dr. Brandt, you may perhaps remember that the prosecution in their material submitted a file by Professor Klieve with reference to a meeting of the so-called Blitzableiter Committee. This so-called Blitzableiter Committee was known as the agency in the Wehrmacht which dealt with the preparation of the defense of biological warfare. In this file about the meeting of this Blitzableiter Committee Professor Klieve writes and says that the defendant Dr. Blome made utterances during that meeting which were to the effect that the Blitzableiter Committee was working much too slowly; that it had to be dissolved. He said that Blome would have to turn to Brandt; that is, your, or to Goering. I don't know whether this man, Dr. Klieve, will appear as a witness. I asked for him, and I therefore want to ask you Dr. Brandt, at any time did defendant Dr. Blome turn to you in this matter? Did he make any proposals to you? Please reply.

A I heard this work, Blitzableiter, for the first time through this document Klieve. I did not know that before. With reference to such a proposal Blome certainly did not turn to me as can be seen from this Klieve document, orally nor by writing. I had no conversation or correspondence with him at all, and he never approached me with reference to this problem, Blitzableiter.

Q Dr. Brandt, I have a further question, referring to a different chap-

ter. This morning during your examination you repeatedly spoke about differences which you yourself had with the Reich physicians' leader, Dr. Conti, and you also spoke of differences which the defendant Dr. Blome had with the same Dr. Conti. Dr. Blome was the deputy of Dr. Conti, and I am interested to know whether you can give us any more information as to what kind of differences existed between Dr. Blome and Dr. Conti, and to what these differences referred?

A Without going into details, I would like to describe them as follows: Whenever physicians are represented as a community Dr. Blome was of the opinion that only professional reasons must be decisive for the manner in which they are represented, but that it would not be correct to involve a physician in political questions and put him into a political harness, thinking that one could further medicine by that.

In this connection whenever I got into contact with Dr. Blome I had many discussions with him. At these occasions it was clearly mentioned that in addition to the personality of Conti himself, which brought difficulties of its own with it, these mentioned material reasons were decisive.

Q In this connection, Dr. Brandt, I should like to put the following question to you: During these conversations which were carried on by Dr. Blome with you, did he say anything about wanting, under all circumstances, to take out physicians from Party matters and that for this reason he desired to separate the union of personnel which existed between the Reich Chamber of Physicians on one side, and the Main Department for Public Health on the other and he wanted to do that for the reason that this so-called public health office was an express Party institution?

A The situation was as you described it, yes, exactly. Even in December 1944 we discussed this question. I think it was even after the decree which was mentioned this morning, the decree number 2 where the Army Medical Chief was separated.

Q Dr. Brandt, do you remember anything about the following: With reference to these conversations which you had with Dr. Blome did he complain to you that Dr. Conti, the Reich physicians' leader, kept many things away from him, Dr. Blome, so that Dr. Blome was not informed about important

matters in the Reich Chamber of Physicians and matters which concerned the leadership of the medical profession? My question is whether he told you that or whether he complained to you about it?

A He did that and the personality of Conti was always mentioned, who was a distrusting person, a difficult person to cope with, who concentrated everything to himself personally, everything that happened in his office, so that not one collaborator of his could receive any insight in the activity which he himself exercised.

Q Witness, one further question. Do you know that this Dr. Conti, apart from other offices, had two main positions? Which were these positions?

A These were the two positions. One was a Party position, Reich Health Leader, and the other, Under Secretary of State of the Ministry of the Interior.

Q That is Reich Health Leader; is that identical with the Deputy Reich Physicians' Leader?

A The position was that, as far as personnel goes, he was the physicians' leader, and at the same time, Reich Health Leader. In addition, in the state sector he was Under Secretary of State of the Ministry of the Interior. Dr. Blome was his representative in his capacity as physician's leader; that is, merely partly a representative of Conti's personality, not on the state sector.

Q The latter is very important to me. On the basis of your knowledge of questions of competence, you said that Conti in his capacity as State Secretary was not represented by Dr. Conti?

A No.

Q For that he had other collaborators?

A Yes, for that he had officials of the Ministry of the Interior who represented him.

Q In that connection, Dr. Brandt, I want to put the following questions to you: This morning you told us what position you yourself held within the euthanasia program. You naturally knew the jurisdiction and tasks of the participating agencies and persons. Did the defendant Dr. Blome exercise any function in the euthanasia program? Was he in any way participating in it?

A I did not meet him at all, and I heard nothing about that.

Q Witness, I am putting this question to you for the following reason. You remember that on the wall behind you there used to be a chart which was made according to the statements of the defendant Brack, and on this chart which I think you had, there is in the center a square for the State Secretary Conti in the Reich Ministry of the Interior, and you, I am sure, will remember that to the right of this square there was a smaller square which said Dr. Blome. You remember that, don't you? You already explained that Dr. Blome had nothing to do with the euthanasia program and did not represent Dr. Conti when he acted in his capacity as Secretary of State. Now, is it your opinion that this chart which was made according to the statements of the de-

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fendant Brack, is wrong in respect to the square where Dr. Blome's name
is mentioned?

A This square with reference to Dr. Blome is wrong, and Dr. Brack in his new chart already corrected that.

DR. SAUTER: In that case I have no further questions, Mr. President. Thank you.

THE PRESIDENT: Is it anticipated that there will be any further cross examination by any of the defense counsel tomorrow morning?

DR. FROESCHMAN: (Counsel for defendant Brack) Mr. President, I have a number of questions which I want to put to the witness, Dr. Brandt, which will take some time.

THE PRESIDENT: Mr. Secretary General, here is another paper that belongs in your custody.

The Tribunal will now recess until 9:30 tomorrow --

MR. McHANEY: If it please the Tribunal, I would like to ask that the Tribunal rule that the witness, Karl Brandt, be confined so that he may not be talked to by any of the defense counsel, including his own defense counsel, until he has completed his examination on the stand.

DR. SERVATIUS: I don't know whether I understood correctly. I certainly shall be able to speak to my client, or is that to be excluded?

MR. McHANEY: I think he has now taken the stand and is to be treated as any other witness, and I think it is proper that in the case of any ordinary witness appearing before this Tribunal that he not be talked to by either side during the course of his examination once that examination has begun.

JUDGE SEBRING: Mr. McHANEY, does the Tribunal understand from your statements that during the course of prosecution when the witness had once taken the stand, that throughout the course of the examination no member of the prosecution or its representatives attempted to discuss any matter with him at any time during the course of the examination?

MR. McHANEY: Well, I think that has been uniformly true, your Honor. However, I can't speak for everyone. However, in view of the Tribunal's position, or rather, the question just put, I will ask that when Karl Brandt goes under cross examination tomorrow, that his defense counsel not be per-

mitted to then confer with him; at least, I would like a ruling to that effect.

DR. SERVATIUS: Mr. President, I would be in complete agreement with this ruling. As soon as the witness is at the disposal of the prosecution I will not speak to him. However, before cross examination has started I must have the possibility to speak to my client.

THE PRESIDENT: The Tribunal is of the opinion that under the circumstances at this present time counsel for defendant Karl Brandt may speak to him until the defendant is turned over to the prosecution for cross examination, and after that time the witness should be under the rule to not talk to anyone until his cross examination by the prosecution is completed. I understand that counsel for the defendant, Karl Brandt, is in accordance with that principle?

DR. SERVATIUS: Yes.

THE PRESIDENT: The same principle will be followed with the other defendants when they take the stand.

The Tribunal is of the opinion, and I think the Tribunal's ruling was clear, that defendant Karl Brandt's own counsel and no other counsel for any other defendant or anybody else, should consult with the defendant Karl Brandt during the course of this night. That's understood.

The Tribunal will now recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 5 February 1947, at 0930 hours.)

CORRECTED COPY

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al; defendants, sitting at Nuernberg, Germany, on 5 February 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Court Room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in Court.

THE MARSHAL: May it please your Honors, all defendants are present in the Court Room.

THE PRESIDENT: The Secretary General will note for the record the fact that the defendants are all present in Court.

KARL BRANDT - Resumed

EXAMINATION

BY DR. FROESCHMANN:

Q Witness, yesterday in the last part of your discussion of the Euthanasia program - I would like to address some questions to you in that connection. Do you know that in August, 1939, an oral order had already preceded the written decree by Hitler to Bouhler?

A. No, I do not know anything about that. However, I consider it possible because otherwise this concrete order to Bouhler would not have been given. I assume that perhaps Bouhler may have had a certain contact about the preparations which were taking place between Dr. Conti and Lammer, which, at the time, were immediately discussed at Danzig in the middle of September.

Q Yesterday you have already spoken of exceptions -- the persons who were not allowed to fall under the euthanasia program -- and in this connection you have already mentioned the

war invalids. Have I understood you correctly that those war invalids were to be excepted from the euthanasia whose mental disease was in direct connection with an injury during the World War I or World War II?

A Yes.

Q Do you know anything about the fact the the defendant Brack, together with his collaborators, drafted the law?

A I have only found out about it at a later period of time. At the time I did not know anything at all about it.

Q It should be of interest for the Tribunal to know the number of insane in Germany in 1939. Would you be able to give some information about that subject to the Tribunal?

A I cannot give the exact number for the year of 1939 to you. In general we have no idea about the number of mentally diseased in the country. The number which I know had probably been determined in the year 1934, but I cannot say that with certainty. The main contingent concerns people suffering from paralysis in all the phases of the disease. In this connection, of course, there were not only the sick persons who had to be confined to an institution but altogether a number of patients who were subjected to general medical treatment. The number was estimated at approximately one million. The next biggest number of patients was that of schizophrenia which was located around six hundred thousand and that was out of a population of about sixty million. This schizophrenia, at the same time, represents the mental contingent for the mental institutions and that was approximately two hundred thousand. For the number of beds available, that means 70% to 80%. Of these cases of schizophrenia, approximately 20% could be cured. The remainder continued to be patients in mental institutions. The same number of approximately two hundred forty thousand patients is the number for epileptics and for the manic-depressive patients.

The statistics for the Huntington Disease stands at about 60% against the others. However, altogether, the number of mentally insane and idiots was approximated at one million. Altogether there may have been three million mental cases.

Q How many, in your opinion, of these cases were confined to institutions?

A Of the three million, the number of two hundred fifty thousand occupied beds in institutions. That is, about six hundred thousand were under constant medical care and one part of them, approximately two hundred fifty thousand, were confined in hospitals while the others were treated by a private physician.

Q Do you have an insight into the fact of how many people were included in the euthanasia program described by you yesterday in the years 1939, 1940, 1941, until the end?

A The number was computed from our statistics, one thousand -- 10 to 5 to 1, in which count is the number of persons who are healthy; ten of these are under medical care, five are under constant treatment in institutions, and one comes under the euthanasia program. That means that amongst one thousand healthy people there is one such case. That again is figured from the population of sixty million -- that is, approximately sixty thousand.

Q However you had no access to exact statistics?

A As far as I know no statistics have been compiled.

Q Now, one other question.

Who gave orders within the euthanasia program? Did you give them or did Bouler give them there with respect to the physicians?

A Yesterday, I stated that the T-4 was an office of Bouhler. As far as I know the physicians were suggested on the part of the Ministry of the Interior. In the course of that time I attended about four conferences which took place at the office of Bouhler where the expert and three other experts also attended. The remaining con-

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ferences which took place elsewhere were carried out without my participation.

Q Could the Defendant Brack issue any independent orders within the Euthanasia Program?

A No.

Q Was Brack subordinated to you, witness?

A No, Brack was not subordinated to me but was subordinated to Bouhler.

Q Did Brack discuss medical matters with you?

A No.

Q Did you know that in the winter of 1941 to 1942, at the time when the catastrophe broke over the German Army in the East, members of the T-4 were assigned to carry out a rescue action in the East by order of Hitler?

A I am of the opinion that they were already used before I visited Viasma which I have described to you; that would be already in December of 1941. These units were already used on the railway from Minsk to Smolensk. I think that this was a measure which was suggested by Dr. Todt.

Q Do you know how long this rescue action lasted?

A In my opinion and as far as I remember, it was concluded with the end of winter, around March or April.

Q Then I would like to ask you the following question, witness. By virtue of this decree of Hitler of 1 September 1939, were you and Bouhler given the assignment to authorize certain physicians to give mercy deaths to incurably mentally insane -- was it your opinion to obtain the assurance of Hitler that these physicians, after having performed such euthanasia, if they were threatened with legal procedures, that they should be saved from such with intervention by the administration?

A Yes, absolutely.

Q Therefore, in the decree of Hitler, you have seen a statement by the head of the State, according to which these physicians were ex-

cepted form any legal procedures?

A Yes, that is quite clear. That has also been the case in the continuation of the program in 1940 and 1941.

Q Now do you agree with me that the State did not cease interest in the life of a human being which was worthy of protection?

A I have not understood the previous question.

Q I have asked the question, do you agree with me that the State has not ceased an interest in the life of a human being worthy of protection?

A Yes.

Q On the authority of Hitler and being familiar with these prerequisites, that is, the incurably insane, have you seen in that the statement by the head of the State that the interest of the State ceased in the lives of these people, namely the mentally and incurably ill?

A No, I have not seen that.

Q And why not?

A In this I have seen only the thought to help the condition of the person and to bring it to an end in the interest of the afflicted person. That was part of the State interest.

Q Therefore, the reason for these statements in this case lay in the person of the patient?

A Only in the person of the patient.

Q Witness, now according to your medical knowledge are they alive or have they lost so much of their legal value of living that a continuation as they are for all time has lost its value for the person?

A Yes, for the person himself, yes.

Q Do the so-called mentally dead belong to that group -- that is, people who are in a condition of final incurable idiocy?

A I would count those people into that group, yes.

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Q You have stated that the decision about the diagnoses as to their incurability was in the hands of experts who worked independently of each other on the individual cases, is that correct?

A Yes.

Q Now in your opinion were these experts now, in a certain sense, State Organs? I want to repeat the question: Were the physicians whose task it was to make diagnoses, through the fact that they had been given the authority, were they now in a certain sense organs of the State as far as their diagnoses were concerned?

A With regard to the decree they have been just in that capacity, in an official position.

Q They did not have an official position but with regard to the decree they have had that capacity. Witness, with the specialized physicians is it possible to determine such cases of incurable mental diseases with absolute certainty?

A Within the framework of the general human considerations, yes, that possibility exists.

Q With the insufficiency of human knowledge can a mistake occur in the person of even a physician with much experience?

A A mistake is, of course, possible.

Q Now, does not now a deputy of the head of the State have to bear this possibility of mistakes in mind?

A This possibility was taken into account by the fact that a number of experts and also subsequently a number of observatory possibilities of the patients were made available to the physician; furthermore by the fact that after having been confined to an institution for 5 years, the institution where the patient was located would still subject this patient to a period of long observation.

Q Therefore, to sum up for conclusion, you have seen in the security measures which you have just mentioned, you have seen State and medical guarantees?

A Yes, the State and medical guarantees.

Q Then I do not have any further questions.

THE PRESIDENT: Is there any further cross-examination of this

witness on the part of any defense counsel? There being none, the Prosecution may cross-examine.

CROSS EXAMINATION

BY MR. MOHANEY:

Q Herr Brandt, since you have just been discussing Euthanasia we shall continue on that subject. I would like to ask you how much psychiatric training you have received?

A I have had no psychiatric training in particular.

Q How much first-hand knowledge have you received on insane patients?

A I am afraid I shall have to ask you to repeat the question. I did not quite understand it.

Q I asked you how much first-hand knowledge or experience you have had with insane persons.

A First of all at the university I had my ordinary training and afterwards I had no more practical experience in teaching regarding insane patients.

Q How many insane asylums have you been in for the purpose of observation and study?

A I did not have any observation in or visits to insane asylums. I said yesterday that I had been to Bethel and at a later stage I once visited a special clinic at Kassel. Apart from that I have no special expert knowledge in the field of psychiatry.

Q Let us go back to the Fuehrer's letter of 1 September 1939. That is Document 1630-PS, Prosecution Exhibit 330. I will read it to you, although I am quite sure you are very familiar with it. It is dated Berlin, 1 September 1939.

"Reichsleiter Bouhler and Dr. Brandt are charged with responsibility of enlarging the authority of certain physicians to be designated by name in such a manner that persons, who, according to human judgement, are incurable, can, upon a most careful diagnosis of their condition of sickness, be accorded a mercy death."

(Signed) "Adolf Hitler"

This program was not limited to the incurably insane, was it?

A It was stated in its content that in the case of a verdict of incurable disease, mercy death could be granted. I do not know whether you have just mentioned insane patients. All I heard was patients.

Q That is the point I am making, Herr Brandt. The order itself does not say "incurably insane patients" but just "incurable persons."

A Incurable persons, yes, I see.

Q And I therefore put the question to you that the program was not limited to insane persons, was it?

A To begin with it was not a proper program at all. What I consider to be a program is an exact ruling on the limits within which people were to be dealt with in this matter. It was generally left open just by using the word "patients" without quoting numbers or types of illnesses. Without that there was a definite limit imposed in this matter. Since the word "patients" is used this also entails the possibility to deal with insane patients within the framework of this euthanasia and to relieve them of the degree of illness they are suffering from. The affair was designed for insane patients, such as T-4 at a later stage, on collaboration with Dr. Linden's corresponding department in the Ministry of Interior, carried out later. Individual cases of individual patients who were not insane did occur and did actually come to my knowledge. It did not come to my knowledge on the other hand that they were subjected to euthanasia. We were there concerned generally with applications coming from patients or from their relatives themselves, which either went to the Chancellery of the Fuehrer or were dealt with by the Ministry of the Interior or some other agency which transmitted them there, in such a case Bouhler's department, and, incidentally, one individual case dealt with by me which came to our clinic for observation. Generally speaking, these patients were enabled to go to a sanitarium or some other institution.

Q : Now, Herr Brandt, let's get clear at the beginning that we don't want to be quarreling about the use of the words "euthanasia program." I am going to continue to say "program"; and I understand that you disagreed with that use of the word. But I think we understand what we mean. So let's don't consume time arguing about this triviality. Now, are you ready to swear that only insane persons, incurably insane persons, were subject to euthanasia in spite of the broad Fuehrer order here which says that euthanasia can be applied to any incurable person whether insane or otherwise?

A: Yes, that is precisely what I wish to express because of the individual cases which I knew about being no more than four or five as years went by; but in regard to these cases I must say that euthanasia was not carried out and there were no corresponding authorizations coming through.

Q: You made a considerable point of the humanitarian motive in relieving these persons from pain and suffering. There is nothing in this letter which limits the applicability of euthanasia to those persons who are suffering pain, is there?

A: If I were to read through its text, I probably wouldn't come across that word, no.

Q: Well, I suggest to you that you couldn't swear to this Tribunal that the program was limited to the persons, insane or otherwise, suffering severe pain, could you?

A: We weren't concerned with pain in the case of these insane patients. We were concerned with their condition, their entire condition, their mental condition. It isn't that stupidity or being demented is a painful affair;

it is defectiveness of the mental structure; and it is connected with the disintegration of a man's personality; and, of course, these people because of the disintegration of their personal structure were included in that program which you have just described.

Q: Well, I am sure that we all realize that, Herr Brandt; but you had made such a considerable point of the humanitarian motive of relieving the patient from subjective pain and suffering; and I'm putting it to you that there are a large number of persons who can be classed as insane who are in fact perfectly happy people. Isn't that true?

A: I don't think that an insane person is a happy human being, nor do I think that the life of an insane person, considering the circumstances under which it progresses, is something which is within the keeping of human dignity. These are considerations and trains of thought with which one will have to grapple again and again. Under certain circumstances this may be nothing but an argument with words; but the fact of the condition of such patients and the fact of a condition unfit for the continuation of life -- that is the decisive factor. In that connection the question by the psychological burden which someone will have to bear who is, for instance, suffering from the condition of depression.

Q: Of course, if you base the justification, the moral justification, on relieving people from pain and suffering, you can see that it is both consistent with that high moral principle and the wording of this Fuehrer letter to apply euthanasia to so-called hopeless cases of tuberculosis or cancer or syphilis and what not; isn't that true?

A: That is not possible. I have already said earlier to Dr. Froeschmann and I emphasized it yesterday that as far as the status is concerned it cannot be considered a burden and patients who are still in a position to be helped should be helped. The burden which is after all nothing but a burden to the budget must not under any circumstances play a part. That would be a sad condition. It is a sad condition in all civilized states that they do not raise the money and the fund essential for this purpose, both, I mean, for the supply and the welfare of such persons who are worthy of such care in insane asylums. On the other hand as to care for tuberculosis patients, I should dislike to see these people included in the euthanasia program under any circumstances. It is a principle and most decisive difference which play a part here. I have told you earlier that euthanasia can only play a part in the interest of the patient himself and under no circumstances must any other interest, any other factor, be of significance in this connection.

If I apply this to conditions in Germany, then before the war we spent

three hundred fifty million ~~per annum~~ for these asylums, which in comparison to other states is a large sum of money. In spite of this as a total expenditure it is a ~~small~~ ^{small} ~~thing~~ if you consider that three hundred fifty millions a day went for the pursuit of the war, or if you compare it with the cost of a battleship, which is about the same. These funds, this equipment, and the pay for the necessary personnel is something which every well organized state ought to raise.

Q Now, this Fuehrer letter does it say that the patient has to be doomed to an early death, does it?

A He says that if the situation is most critically judged by the doctor then the mercy deaths can be granted. In the case of incurable diseases, any other questions which might have played a part in this connection are not dealt with in writing in this decree; but appropriate instructions issued by the Fuehrer to Bouhler or to me in order to have them passed on to Bouhler for his carrying out were dealt with in that matter.

Q Well, I don't think you answered my question. Let's put it in another way. The euthanasia program was not limited to persons who were doomed to die an early death, was it?

A I don't know whether you are applying the words early death to the age of the person or the condition of his illness. It might have been possible -- it was possible that patients were included in the program who under certain circumstances might have been able to live another two or three years; but it was not the case that with reference to the insane patient only the aged person was affected. Of importance were the questionnaire and the stage of his illness which were shown in these details and facts.

Q Dr. Brandt, isn't it true that you can have a person of fifteen years who is suffering from incurable insanity of one sort or another, yet who may live to ripe old age of seventy-five? Isn't that true?

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A It's most improbable. It might under certain circumstances happen occasionally, occasionally; but if someone aged fifteen is insane, it is most improbable that he will live to the age of seventy-five. I am pretty sure that this would be one of the most outstanding exceptions. Generally

it wouldn't be the case at all. The life of insane persons who fall ill at an early age usually comes to an end fairly early, too.

Q: Well, what is the average length of time that an insane person spends in an asylum in Germany?

A: I am afraid I can't tell you that, what the average figure is. It will depend on the type of disease; but I can't give you an average age, I'm afraid.

Q: Now, do you want the Tribunal to believe that the euthanasia program was applied only to such persons as in the judgment of the experts would die within a period of one year or two years? Is that what you want the Tribunal to believe?

A: I believe that the translation into German is not as clear as it is necessary for me to understand your questions. Maybe I might ask you to speak a little more slowly so that the interpreter can keep the pace.

Q: I asked you, Doctor, whether you wish the Tribunal

to believe that euthanasia was applied only to such persons who would in any event die within one or two years.

A: I can't tie myself down by saying that the patient effected would have died one or two years later. Some of them might have died earlier; some of them might have died a little later. The decisive point was not that the anticipated year of death from the date of their being found was considered but what was decisive was the condition of the patient at the time he was being considered.

Q: Bouhler was not a doctor, was he, Herr Brandt?

A: No, Bouhler was not a doctor.

Q: Now, this letter from Hitler says that you have the responsibility of enlarging the authority of certain physicians by name. Did you do that?

A: These were authorizations given to certain medical offices by Bouhler and myself jointly.

Q: It says here to enlarge their authority by name. I take that to mean that you know who these people were?

A: These doctors were dealt with through the Ministry of the Interior, which actually had jurisdiction over these asylums and which nominated them, since neither Bouhler nor I could make a survey of these asylums to this degree, so that in fact suggestions were made by the agency concerned, who had knowledge of the personnel under their jurisdiction. Afterwards, after this designation had taken place, the authorization was then given.

Q: Did you investigate these men or cause any investigation to be made?

A: No, it was done on request of the Ministry of the Interior, which was the superior agency of that institution.

Q: But, Herr Brandt, ultimately it was your responsibility

and the responsibility of Bouhler to designate these men and to authorize them, was it not?

A: With the authorization and the signing, I carried out an order which was given me, a task of the selection of these men, I mean. We ourselves could not carry out the designation of these men; and in that connection therefore we relied upon the recognized department, which right from the beginning was responsible for such institutions; and we had to rely on them; and we did rely on them. There was no other solution in practice. Otherwise it would have been necessary for one of us to have first of all the management of such institutes in our hands; and of course that was not the situation.

Q: But as a good follower of the Fuehrer, you of course accept responsibility for their designation, isn't that right?

A: As to responsibility for the designation of these men, the designation, the selection, took place through the Ministry of the Interior, not through me.

Q: So if mistakes were made in selecting these men and they picked out a few reprehensible characters, you don't accept responsibility for that? You had nothing to do with it? Is that right?

A: No, I couldn't say that. I wouldn't say that I had nothing to do with it. The selection did take place, however, through an official agency; and also of course it was to make the difference between authorization and the actual carrying out of such an action. Authorization alone is not the only decisive factor in the putting into effect of this plan. There were various channels which were instituted; and the possibility of a wrong selection therefore appeared to us to be out of the question.

Q: Now, you must have been interested in who was being selected. Do you remember any of the names of the people who were authorized to accord a mercy death?

A: I can't tell you a single one of these names. There weren't many of them. There were chiefs of institutes. I have just read one name, Pfannmauller; and then the name Kartell played an important part.

Q: Now, how about the name Renno?

A: It doesn't mean a thing at the moment.

Q: He was stationed at Hartheim.

A: No, the name Renno does not mean a thing to me at the moment at any rate. I did not learn of him

Q: You knew Hartheim was one of the extermination stations?

A: In Hartheim there was a euthanasia institute, yes.

Q: I don't suppose you knew the name Christian Wirth?

A: I know him from the files. I know him from the files, without the Christian. I know the name Wirth from the files. Probably he is the same.

Q: That is very interesting. You remember that Mr. Gerstein in his affidavit said that Wirth was running this Jewish extermination camp at Treblinka. Do you remember that?

A: That's how I know the name.

Q: You mean you knew his name from the files of this case; you didn't know his name during the euthanasia program? Is that what you mean?

A: No, I can't recollect having come across this name during the euthanasia program. I am merely trying to express the fact that I know it from the files here.

Q: I misunderstood you. Wirth, I will suggest to you, also worked at Hartheim; and of course you don't know the name Schumann, do you?

A: Only now from the files did I get to know it. It wasn't know to me beforehand. I didn't even know that he was in Hartheim at any time.

Q: No, he wasn't; he was at Grafeneck. How many men were authorized to administer euthanasia? You said there were very few. I should think that you would remember them.

A: Those were the people, presumably ten to fifteen, I should assume, apart from individual authorizations which

had been given in connection with the Reichs Committee Children. Those, of course, were different doctors.

Q: Ten to fifteen men — well, let's see that we understand one another. Were these ten or fifteen men the men who actually gave the injection in the extermination station or herded the people into the gas chamber? Were these the ten or fifteen who were authorized to administer

the mercy deaths, or was that Heyde and Nietsche and the top experts?
Now, whom are we talking about here?

A. In my opinion we are talking about these people who had authority to carry out the euthanasia as such. They were the people who had to carry out the work of experts. Will you repeat the question, please?

Q. I'm not sure that the translation came through so I'll repeat it. I understand that you are stating that ten to fifteen men were authorized actually to carry out euthanasia in the euthanasia stations?

A. I do not think that there were as many as that simultaneously. The total was that high. One or two doctors were working in the euthanasia institutes who had authority; and, if I recollect it properly, then the total number of institutes amounted to six, so that this would bring us to a total of twelve. But I also believe that doctors changed so that one might have dropped out and then another one would be given authority. At any rate, the figure was a very low one.

Q I am sure they did drop out. I suggest to you that Hirth went to the East to help with the extermination of the Jews, and Schlumann went to Auschwitz to help out with the extermination of the Jews, but I am curious to know why a man in your position with the responsibility to designate these men with authority to perform euthanasia could not remember the names of 10 or 15 men who were actually doing it. You recalled only yesterday that two to four per cent of the people sent to a euthanasia station were rejected and weren't killed. I can't understand in the face of such remarkable memory that you wouldn't remember the names of 10 or 15 men?

A I can't remember the names. I am quite sure that none of these people concerned were sent to the East with my knowledge, neither for the extermination of the Jews nor for any sterilization activities.

Q How many euthanasia stations did you visit?

A I have visited on one occasion.

Q What station did you visit and when?

A Grafeneck. This must have been on or about the beginning of 1940. It was at a time when the first administrative set up there had begun to operate in connection -- these were departments instituted in connection with Ministry of the Interior. It was because of these registrar offices and news which had come from there, there had been objections on Bouhler's part right from the word "go" and on my own part regarding the secret procedure connected therewith, and I desired to be once more informed about the problems on hand and so I went there on one occasion and saw it there myself. Apart from that I have not visited any other of these institutes.

Q So you went to Grafeneck in 1940; do you remember what month?

A I can't tell you exactly which month it was.

Q Well, was it the first part of the year or the second part of the year?

A. It seemed to me it was in the first half of the year?

Q. I suppose you met the doctors there?

A. Yes, I saw them.

Q. But you don't remember meeting Schumann who was at Grafeneck?

A. No, I don't remember the name of the doctor who was working there.

Q. Now, how many observation stations did you visit?

A. I didn't visit any. I only went to Grafeneck.

Q. I want to understand this, Grafeneck was a euthanasia station that is where the people were actually killed. I now put the question to you, how many observation stations did you visit, which is a place they stopped and they kept them before they went to the euthanasia stations?

A. I have never visited an observation station, neither an observation station nor a euthanasia station. I have

only seen Graefneck is all.

Q. Now, you have testified that this letter of Hitler was pre-dated sometime in October 1939, 1 September 1939?

A. That is right.

Q. The day Poland was attacked?

A. Yes.

Q. Why was that done and what were the conditions of pre-dating the letter?

A. It was attempted to express that this decree was the form in which during time of War such an euthanasia program could properly be carried out after the war, at least that was the interpretation of mine at a later stage after I heard about conversations between Dr. Lammers, Conti and the Fuehrer. At a later stage the program was to be defined in another form and continued. The reasons were of former desires, the reasons for pre-dating of that.

Q. I find this a most curious conception that euthanasia somehow is peculiarly applicable in a time of war rather than of peace.

A. It was meant to be continued in time of peace. I said yesterday that before that it had apparently been quite clear through the discussions on the part of the Ministry for the Interior and Dr. Lammers, and even before the War appropriate preparations had been made, but at that time, at that moment apparently these preparations had not reached such a stage of formation and also apart from this in 1935 Hitler appears to have said that in the introduction of such a law and carrying out of such a euthanasia program, it was said by him to be a good thing for the beginning of the War. He also added that he was quite clearly of the opinion that in the War the introduction of any possible objections raised by the Church would be the easiest, and as far as that is concerned the dating and signing of this decree is in my opinion to be interpreted why it was signed on 1 September 1939.

Q. You understand I am not arguing with you that this really was a War measure. I just think there is some fundamental disagreement between us as to the reasons it was carried out during the wartime. I am suggesting to you it was carried out during wartime in order to eliminate the kind of so-called worthless lives, to clear hospitals for possible wounded soldiers, to make more doctors and nurses available for the care of the wounded soldiers, to

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eliminate the necessity for the care and feeding of these worthless lives.
Isn't that the reason that the program was initiated at the beginning
of the War?

A. Regarding the question of food, this expression now used by us
"useless eaters", let me say this to begin with, if we take into
consideration 60 million population for simple reasons of arithmetic, and
then take into

consideration 60 million patients, and this work concerning them, then this means nothing further than the maintenance of these 60 million people, or 6 to 8 calories per head of the population per day, and I am sure this would not be a decisive factor in the condition of the war, and another consideration if this had been decisive this certainty would not have remained stopped at a time when the food situation beginning in 1942 was infinitely more complicated, and certainly we would have restarted the program, and it would not have been dropped until the end of the war. I think these must be decisive arguments speaking against the conception of the "useless eater" and gaining space for patients, and gaining medical offices may have been a consideration which was more of an administrative nature. It is not, however, decisive since this gaining of patients' space in amount of 60,000 beds did not play and would not have played an important part. During the war we had up to a million wounded, apart from ordinarily sick people, so that 60,000 would be a very small percentage of that. In fact the gaining of a corresponding number of beds could not be expected apart from the final gain of just a few thousand. Since the further arrival or accruing of insane persons was taking place at a very rapid rate, such considerations as I have just described were in any case without any interest whatever to the medical man concerned -- to the doctors concerned. He was only concerned with his patients, not with economical, political or administrative considerations.

Q. Was it not also decided that those persons able to work should not be killed?

A. The ability to work has nothing whatever to do with these euthanasia or not euthanasia. I pointed out yesterday the question contained a statement not concerned with the extent of the program but in order to find an expression there, just as it can be in the case of a criminal person, a question of the mental condition of the person himself. We are not concerned with the process of the work of a few years

there.

Q. Well, I take it then that the questionnaires were filled out on those able to work as well as those unable to work. Is that right?

A. We were not concerned with the question of subdividing them into people capable of work and people not capable of work. What is significant is the reaction of the person to this treatment and the resulting statement as to how and to what extent he is capable of work, how he can work and what he is capable of doing, in order to form a picture about mental activity and ability to concentrate; and

in order to form a picture of that and in order to find out to what extent the person himself can be a possibility, seen from that point of view.

Q. You have told us that twice already. I wish you would pay close attention to the formulation of my question, and answer it preferably in a brief manner. You said that consideration of ability to work all played a part insofar as a diagnosis of the patient's condition is concerned. I then put the question to you whether or not individuals that did not fill out questionnaires were from both those able to work and those unable to work, and I am asking you for a "yes" or "no" answer.

A. The question whether someone is capable of work or not can be answered with a "yes" or "no". I can answer it "yes" or "no", if you put it separately with the man capable of work and the one not capable of work.

Q. Herr Brandt, you have stated that there are questions to be answered in the questionnaire which concern the ability of the men to work, the patient to work. It has to be stated whether he can work and if so what he does. Now, you state that that question is not put in there for the purpose of removing from possible euthanasia those able to work, while applying euthanasia to those unable to work.

A. I understand that.

Q. I then put the question to you that quite apart from the content of the questionnaire was not required that the questionnaires in the asylums be completed and be filled out on those same persons in the asylum who were able to work as well as those unable to work. It is simply a question upon what patients did they complete questionnaires, and I have secured no answer.

A. Upon persons who for at least 5 years had been in the Institute.

Q. How was that again?

A. The questionnaires were filled in regarding patients who had been in the Institute for at least five years. And in reference to that it is possible that patients had questionnaires filled out about them who were perfectly capable of work, patients likewise who in no way were

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included in the euthanasia program. The institutes received instructions to send questionnaires to the agencies concerned every six months stating details about patients who had been in the Institutes for at least five years or more.

Q. Now, I think we are about to get the answer. You state then that questionnaires were completed then at least on one class of persons who had been in the asylum at least five years, and that questionnaires were filled out on such persons irrespective of ability to work?

A. Yes.

Q. Well, I trust you see the importance of the question, because if in fact the requirement was that questionnaires be

filled out only on those persons who had been in the asylum for five years, and those who also were unable to work then there might be a serious question as to whether or not really ability to work was not a very great and compelling consideration in the applicability of the program to insane persons. I don't get a clear picture of just what you did to get this euthanasia program in operation, and what you did after it was functioning; would you go over that just briefly now please; what did you do to get the program under way and what did you do after it was functioning, briefly and concisely?

A I had nothing to do with the putting into effect of the program. The carrying out of this program was headed by Mr. Bouhler. In fact during that period I myself, with a few exceptions caused by different circumstances, such as the Fuehrer being in Berlin, I did not come to Berlin myself during all the years, and in 1942 I was tied down in the Fuehrer's Headquarters where I had no deputy for the carrying out of the program and preparations, and which were mentioned carried out by Bouhler in collaboration with Linden's agency. I myself was present during just a few conferences held by Bouhler but my function was to be able to inform the Fuehrer repeatedly from the point of view of general medical considerations regarding any special causes, any special events which might occur in the carrying out of the program and in connection with which it might have appeared necessary to Bouhler to have the decision of the Fuehrer obtained. Apart from that it was my task as designated earlier to authorize, together with Bouhler, the doctors' selections for the program. On the chart, which is hanging behind me, it is apparent in my opinion just how Bouhler, through the corresponding channels of orders, authorized the carrying out of the euthanasia program, and how from that the channels lead off to the agent concerned in the Ministry of the Interior. My function within the carrying out of that program was individual, not in any way in existence apart from the authority, the authorization which I have told you about.

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Q Well, you have spent considerable time telling us what you didn't do. The only two things that I think you said that you did do were to assist Bouhler in cooperation with Guertler in designating the doctors to perform

the euthanasia, and also as acting as something in the nature of a liaison man between the Fuehrer and Bouhler and the rest of the program, is that right?

A That was in fact my actual function in that connection, with one difference though, that I did not designate, I did not select the doctors. I gave them the authority, the selection and designation came from the Minister of the Interior.

Q I take it that although you and Bouhler were charged with the responsibility for this program, you in fact, do not accept that responsibility here before this Tribunal?

A For the carrying out of such, no, and I might call your attention to Bouhler's letter to the Minister of Justice, Guertner, in which he states quite clearly he alone was responsible for the carrying out of the program. I, myself, could not have been responsible for the carrying out of the program since during the period this program was running, during the period of 1941, I was in practice and never in Berlin, with the exception of a few days and was working in an office away from Berlin and it was never planned in this connection that I should be at the head of the program, or its carrying out or that I should supervise it from the point of view of a medical expert. I could not have been in control because I was not a psychiatric expert, but a surgeon.

Q Well, now Herr Brandt, euthanasia involves a considerable medical problem; how could a layman like Bouhler formulate all these plans to carry out the program, a rather elaborate structure? It seems to me that possibly you must have conferred with Bouhler and jointly reached some understanding of the mechanics of the program, the questionnaire, the form of the questionnaire, the places where euthanasia was to be carried out and a whole host of problems which your Fuehrer surely must have had some interest in?

A These matters which you have just mentioned were principally discussed between Bouhler and Dr. Linden's department, and not with me; because firstly, I have no knowledge as to the number and situations of these asylums, and secondly, the interest, - perhaps that is not quite the right word - should I say perhaps my participation in the matter was connected with general medical problems, but not special medical problems, which the chief expert or experts had dealt with and were dealing with. I had said earlier that I had not actually participated in the conferences dealing with these matters, and in

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fact the authorizing of the medical experts too was carried out by
Bouhler and not by me.

THE PRESIDENT: The Tribunal will be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

CROSS EXAMINATION - Resumed

BY MR. McHANEY:

Q Herr Brandt, before the recess we were dealing with the question of your responsibility in the operation of the Euthanasia program. I have understood your testimony to be to the effect that if any crimes were committed in the operation of Euthanasia, then you were not responsible for these crimes and have been falsely charged in the indictment; is that a correct conclusion?

A I did not say what you have said just now. According to my opinion, my formulation was a different one. I should like to say that within this Euthanasia program, crimes were excluded according to my opinion and that one has to differentiate basically between the legal program as defined by the decree and all other matters which have happened in Lublin with sterilization and the 14-F-13, which has not been mentioned yet. All these things have nothing at all to do with the Euthanasia program and are in no way on the same medical and human level as was defined by the decree.

Q Herr Brandt, I understand your difficulty in answering the question. The purpose of this question is, I am asking you to assume that crimes were committed pursuant to the operation of Euthanasia. It is a question of fact whether such crimes were committed, but right now, I want you to assume that, and I am trying to determine who can be responsible for these crimes. I have understood your testimony in such a manner that it leads me to the conclusion that if crimes were committed; you assert you were not responsible. Is that right?

A I did not learn that crimes occurred within the framework of that program. If crimes had occurred and I assume that - then they only have occurred at the Euthanasia station itself, but that too is impossible since the patients who came there only came through a number of experts who passed an opinion on them. The purpose was that within that program every person - and I said that yesterday - that is every physician had to act within his own responsibility and all physicians had

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to act independently of one another. If anyone had committed a crime
on that station, the person concerned would be

responsible for that crime personally; because if he had committed such a crime he committed it contrary to the directives, which he was given as a physician.

Q Well, now, Herr Brandt, we are not getting along very fast with this point. Let us assume that there was no valid German law permitting Euthanasia and I suppose you are not ignorant of the fact that a number of German courts have already so held; I take it that you deny responsibility for the operation, the functioning of the Euthanasia program on the assumption that it was criminal; yes or no?

A The execution was not carried out as a criminal program. I yesterday stated what reasons the physician had for his assumption that it was a legal measure and in addition, during the entire time this program was carried out, it was handled in such a manner that everyone had to assume - if he participated in the execution - that it was a legal program. In a letter from Guentler to Bouhler, it is said that there can be no legal complaints. I saw this letter here on paper, but it justifies my opinion that at any period of time we, who participated in that program, considered it as absolutely legal so that the execution of a crime during its execution cannot be considered.

Q Well, perhaps you would be willing to give us an answer to the question if we exclude your responsibility; would you say that if the program was criminally carried out that the deceased Bouhler could be found responsible for that?

A The entire program, and I must repeat that, was not considered by Bouhler; Bouhler was of the same opinion as I was, namely, that the Euthanasia program was not criminal. Certainly if he had assumed that it was criminal, he would not have participated in it any more than anyone else.

Q Didn't you receive reports on the operation of the program?

A No reports were made as far as I know, and I therefore did not receive any reports.

Q I thought you stated that part of your responsibility, as small as it was, was to report to the Fuehrer about the operation of this program. How could you report to the Fuehrer if you didn't receive any reports or otherwise gain knowledge of what was going on?

A I had these first discussions together with Bouhler and the Fuehrer. When you said report I thought you meant a written summary and statement, and I then said that no such reports were made. As far as directives were concerned, all of them were given orally and a report, I understood a yearly report of some report given at a certain period of time about the results of the execution, and I wanted to say that such reports were not made according to my opinion. I haven't received any, and I certainly haven't seen any.

Q Well, how detailed knowledge did you gain of the actual functioning of the program and what reports did you make to the Fuehrer?

A With reference to the manner of the execution in the form of reports the Fuehrer was not informed by me. Whenever any exceptional questions arose and whenever something important came up which Bouhler didn't want to decide on his own initiative, he either approached Hitler himself personally or he asked me to report the matter to the Fuehrer and then inform him in turn.

Q What was the nature of some of these special problems that Bouhler didn't want to take responsibility for? We might be interested in those.

A For instance, there occurred the case of the children, children that were seven or eight years old and were to be included in this Reich Committee matter or whether they were not to be included, or the question came up whether they were too old, and in individual cases such matters were reported.

With reference to the euthanasia program there were administrative technical questions which partly were because of complaining letters and ones that started after September 1944, and then werwere also concerned with letters that came from the church. At that time I came into contact with Pastor Bodenschwanzler and I talked about that yesterday, and these were the matters we were concerned with.

Q In other words, you were something in the nature of a trouble shooter, were you?

A That would not be correctly expressed in that way. I was asked to concern myself with these difficulties without being able to decide upon them myself.

Q You mentioned the euthanasia of children. I take it that that organization, the Reich Committee for research on severe hereditary diseases, was part of the whole euthanasia picture as set up after Hitler's letter of 1 September '39; is that right?

A No, this Reich Committee had already been organized before. It was only up to the time of this decree it was not called euthanasia but merely a collection of these children. I mentioned one case of Leipzig yesterday which had nothing to do with this Committee.

Q Well, that would be the actual killing of children did not start until after Hitler issued this letter of 1 September 1939, did it?

A It did not take place before October since only from that moment on the authorization had begun; that is, from the time this was signed.

Q And the extermination of these children; that is, the authority for doing that, came from this same document of 1 September 1939 addressed to you and to Bouhler, is that right?

A Yes.

Q Now, didn't you help formulate the questionnaires which were used in this program?

A I was present during one conference where drafts of these questionnaires were presented. The drafts and questionnaires had been prepared by the Ministry of the Interior and we were concerned with the questionnaire in connection with the Reich Committee. The questionnaires which were prepared for euthanasia program, according to my recollection, were made without my participation. They were prepared by the expert physicians who were at the disposal of the Ministry of the Interior, if they had not already been ready at the Ministry of the Interior before October.

Q Now, you knew Mr. Heyde and Mr. Nietsche, didn't you?

A Yes.

Q They were the so-called top experts for questionnaires?

A Not at once. At first it was Heyde. Heyde, as far as I know, left either at the end of 1940 or at the beginning of 1941 and his successor was Hietsche.

Q Did you select them or appoint them to their job of expertizing these questionnaires?

A No.

Q Who did that?

A I believe that that was done by the Ministry of the Interior, but I am sure that at the end Bouhler did it, after he had made the acquaintance of the gentlemen of the Ministry of the Interior.

Q Did you confer with Heyde and Hietsche?

A I remember having spoken to Heyde on two or three occasions at the place of Bouhler. I think two or three other physicians were present and it must have been at the beginning of the year of 1940.

Q Herr Brandt, where was your office located in Berlin?

A I had my office at the University clinic in Berlin.

Q But, Herr Brandt, you also had an office in the Reich Chancellery, didn't you?

A In the autumn of 1942 I instituted an office there consisting of a telephone, one room for a secretary, and one assistant, which I had there after I became Commissioner General. Before that time I had no office in the Reich Chancellery.

Q Where was this office located with respect to Bouhler's office. Was it on the same floor of the building?

A It may be that it was on the same floor. The Reich Chancellery was a large building amounting to three hundred meters of length, and consisted of various wings and connecting corridors. There was no contact with the offices of Bouhler from the point of view of space. The offices of Bouhler were at a different wing.

Q Now, Herr Brandt, just how far was your office in the Reich Chancellery from the office occupied by Bouhler?

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A It was necessary to go down two flights of stairs, to go through one connecting corridor located at the center of the building, then go up one flight of stairs and to the other side, then go along a corridor for about sixty meters

and at the end of that corridor Bouhler's office was located.

Q That sounds to be about a sixty minute trip; is it?

A No, certainly not.

Q Did Heyde and Nietsche go over these questionnaires with you in the early stages of the program?

A I can not remember Nietsche having been present. The discussion of the questionnaires for the purpose of euthanasia only started, according to my opinion, with reference to the questionnaire where the symptoms of the disease were mentioned. Heyde, I think, was present at that time, but I don't think that the questionnaires were drafted at that time. I think discussions took place after the questionnaires had been finished and printable. With reference to the contents and the formulation of the questionnaires, I was in no position to participate. This was carried out by the expert physicians themselves.

Q Are you willing to swear that Heyde or Nietsche never went over one of these completed questionnaires and discussed their diagnosis with you?

A I don't think that that has happened.

Q What orders were issued by you and Bouhler concerning the classes of persons upon whom the questionnaires were to be filled out or completed in the asylums?

A If anything was said by me during these discussions where I participated, it could only have been concerning the fact that the medical responsibility had to play a decisive role and that the physician had to be quite clear about the measures that he took and about the manner of his expert opinion that he gave, and to be aware of the responsibility which he took. I can say that generally since even at other occasions whenever any such question arose, I always maintained that point of view.

Q. Herr Brandt, you either didn't understand the question or in any event you did not answer it. I assume you were not interested in having every so-called insane person in Germany fill out one of these questionnaires. Certain classes of people were not to be considered, isn't that true?

A. There were no exceptions with reference to the filling out of the questionnaire. Later on, of course, this changed, but at first the questionnaire were filled out by all the patients who were in these institutions, and then the certain prerequisites were taken into consideration with reference to the length of stay in the institution and the progress of the disease.

Q. Herr Brandt, suppose a person had been committed to an asylum for a period of one month. Was it required that a questionnaire be filled out on such a person?

A. If a person was in the hospital institution for one month, I don't think it was necessary according to my recollection to fill out such a questionnaire. It could have been filled out if it was in reference to the disease itself such as schizophrenia, epilepsy, and it was provided that such patients should also fill out these questionnaires, but according to my opinion, it was not absolutely necessary.

Q. Well, that is what I am trying to get at. I should have supposed that there would be certain obvious classes of persons who were exempt from the program, and I should further think that you wouldn't bother yourself and spend the time and trouble in having questionnaires completed on such persons; and I have put the question to you as to what orders were issued concerning that problem. Do you know or don't you?

A. With reference to the illness I gave no directions, and I certainly issued no orders. The questionnaires were compiled according to the possible symptoms. There are certain psychiatric illnesses which do not lead to such consequences as paralytical diseases. In consequence the expert physicians listed the illnesses where they thought that the serious consequences would occur most frequently.

Q. Herr Brandt, suppose you had a non-German National in an insane asylum for a period of thirty days. He had just been committed and had been there thirty days. Did they fill out a questionnaire on that person or not?

A. The procedure of the filling out of questionnaire in reference to Germans or non-Germans made no difference at all. A questionnaire was filled out in the same way for a non-German as for a German. It was not the principle of nationality but it was the principle of the illness.

Q. All right, I don't think you have answered the question yet. Suppose you had two persons, one a German and one a non-German who had been in the asylum for a period of thirty days. Did they fill out a questionnaire on both such persons or one of them, and if so, which one?

A. The questionnaires were worked upon in the same way whether we were concerned with a German or a non-German.

Q. I didn't ask you whether they were worked on in the same way. I asked you if they were filled out. Now is your answer that they were filled out?

A. According to my recollection, they did not have to be filled out at that time already, but only at such a period when the patient had been in the institution for a period of five years. It depended on the length of time he stayed at the institution with reference to the question of filling or not filling out.

Q. Herr Brandt, I am not in the least bit of a hurry. I will keep you on this stand for three days if necessary to get responses to my questions. I go back to my hypothetical question. We have two persons who have been in the asylum for thirty days. One is a German and one is a non-German National. I ask you whether they filled out the questionnaires on those two persons.

A. According to my opinion, they need not be filled out. They were only to be filled out if they had remained for another four years and eleven months in that institution.

Q. Very well. Your response is that they weren't filled out. You have testified that Euthanasia was not applied to non-German Nationals. Is that correct? Is that your testimony?

A. Yes.

Q. By whom were such orders issued?

A. This was decreed by the Fuehrer expressly.

Q. Did you get the order?

A. Bouhler and I received it. That occurred at the same time when the war wounded were accepted.

Q. And to whom did you and Bouhler issue the orders? To whom did you pass it down to?

A. Bouhler passed on this order to his own agency which worked on the questionnaires. The questions of foreigners and war wounded were dealt with within the Agency T-4. The questionnaires of war wounded and foreigners were not passed on for further working on so that a transfer of such patients could not take place.

Q. To whom did you pass down this order?

A. I didn't receive this order for myself, but this question was reported to the Fuehrer by Bouhler, and the Fuehrer decided that war wounded and foreigners were to be accepted. I think that was even before the Agency T-4 was instituted, and that means that before any questionnaires were worked upon, and I am sure that it was even before the time when questionnaires had been prepared because the designation of foreigners into questionnaires can be deduced from that cause.

Q. Well, you want to change your testimony and then say that you did not receive the order that non-German Nationals were to be excluded, that that order was given only to Bouhler, and that you did nothing with respect to such order?

A. The execution of Euthanasia and the execution of his orders and directives was carried through by Bouhler in his own agency, and it was not done by me. I never entered this Agency T-4, and I never could issue any orders to them.

Q. Now just exactly to whom did Bouhler pass down this order that non-German Nationals were to be exempted?

A. This order, according to my opinion, he had to pass on to the agency which worked on these questionnaires. I didn't ask Mr. Bouhler about it. I didn't ask him to whom he passed this order since he received the order very clearly, and I am sure that he passed it on in the same form as he received it. I am not informed about the interior structure of this agency, and I was neither informed about the manner how this administrative apparatus worked in detail. I can only say that Bouhler really did that since he, I am sure, executed such an order.

Q. Well, you are assuming that he did; that is what you mean to say, isn't it?

A. If Bouhler received an order, he must have executed it.

Q. All you know is that he received the order?

A. Yes, That he received the order.

Q. Why, Herr Brandt, if this program was not to be applied to non-German Nationals were questionnaires submitted on Non-German Nationals?

A. I cannot say anything about the single reasons about that. It seemed simpler to have these questionnaires filled out by these institutions with the order to sort out the non-Germans.

Q. I haven't heard anything about any order to sort out non-German Nationals. All I know is that the questionnaire contains a blank label "Nationality." Are you now suggesting that orders went down to the asylums that they were to sort out non-German Nationals?

A. No. The procedure was reversed. The question of deciding upon a foreigner or non-foreigner was not left to the institution, but at the Central Station T-4 the differentiation was made on the basis of these questionnaires, these foreigners and non-foreigners, war wounded, and with reference to these questionnaires where we were concerned with war wounded and foreigners, we kept them there while the others were distributed.

among the experts for further treatment. In this manner it was made impossible that during the later procedure the transfer of such a patient couldn't be made possible to an observation or Euthanasia institution.

Q. Herr Brandt, do you realise that the execution of non-German nationals in this so-called Euthanasia order would have been criminal?

A. This killing was absolutely in contrast to the order which Hitler gave in this connection, absolutely.

Q. In the face of your testimony, Herr Brandt, I must suggest to you that it appears to me quite ridiculous and absurd, that you would have put yourself to the trouble of filling out questionnaires on persons who were from the beginning exempted from the program. Why did you go to that trouble? What was the point in it?

A. Maybe it was just a general registration. Other questionnaires were attached to the original questionnaire; namely, the institute to which they belonged, and that was necessary for the purpose of statistical summation about the mental institution space that was available.

Q. You are suggesting that these questionnaires were really something in the nature of a survey of insane persons in Germany; is that right?

A. No, I do not want to say that. I want to say that in the procedure when one turned to these institutions there were further materials necessary for administrative purposes. You have to differentiate a questionnaire as to the kind of illness, and the questionnaire with reference to statistical data, which was needed.

Q. Now, Herr Brandt, the questionnaire was designed and issued for the sole purpose of implementing the Euthanasia Program, and I put it to you that it is a little incredulous that this questionnaire would be completed and filled out and sent to Berlin on a substantial group of people as to whom the program had no application.

A. I do not know whether you are putting a question to me or whether you are merely giving me your opinion about it, as it came through the translation.

Q. I am asking for your comment on the opinion which I have just expressed. Isn't that procedure a little bit absurd in your opinion?

A. No, at this time everything was compressed, summarized, as far

as possible, and I know everybody knows what it means to fill in a questionnaire. During the last 15 years we had to fill in so many questionnaires, with so many details, which had nothing to do with the original point that it does not seem at all absurd to me that we used such a procedure to receive additional information --- additional data.

Q. Well, let us carry it a little further and see what happened to the questionnaires of these non-German nationals. They were filled out, presumably all over Germany, and they were then dispatched to Berlin, correct?

A. Yes.

Q. Now, we have heard some talk about these questionnaires being photostated; is that right?

A. Yes.

Q. I ask you, did they photostat the questionnaires filled out on non-German nationals?

A. According to my opinion, no. I do not think they were further worked upon, but I am of the opinion that at the collecting point they remained as they were; so that no photostatic copies were sent to any experts.

Q. In other words, at the collecting point in the T-4 in Berlin the questionnaires were sorted out so that no non-German national questionnaires were photostated; is that right?

A. I am of the opinion that it was so.

Q. Now, Herr Brandt, suppose I put this question to you: Were any questionnaires of non-German nationals expertized? And, your answer to that would be, no?

A. I think that it is highly improbable that that was done, for in this case it would have been superfluous work for these non-Germans were executed prior to the execution of the Euthanasia. I do not think that any photostatats were sent on for the purpose of expertizing.

Q. Well, Herr Brandt, I am happy that we can agree on this absurdity, but I want to put this other absurdity to you. You recall the testi-

mony of Witness Mennecke? Do you not recall that Mennecke testified before this Tribunal that he, himself, expertized a number of non-German nationals' questionnaires?

A I do not remember this testimony in detail, but it is quite possible that he said it. If you are telling that to me now, if this superfluous work had been carried out in one or the other case, I am really not clear why it was not done because it was really superfluous; but, it is possible, even if this expertizing was carried out, then I am quite sure that a transfer of the patients was not carried out, and I am of the conviction that on the basis of this procedure such foreigners were excluded. I do not know with reference to what period Mennecke spoke, and when he received such questionnaires for expertizing, but naturally I know such expertizing had no sense whatsoever.

Q Well, I think your Attorney will agree with the statement that Mennecke testified concerning the period from 1940 to 1941. Now, Witness, you apparently were mistaken when you said that these questionnaires by non-German nationals were not photostated; and you apparently also were mistaken when you stated that the questionnaires of non-German nationals were not expertized. Now, just exactly where was the safeguard in this program which made it impossible for these non-German nationals to get transferred after those questionnaires had been expertized?

A The safeguard could only have been with the central agency in the T-4. It was not possible at any other agency as far as my opinion goes. From there the order was issued that patients were transferred through the office of Linden; and on the other hand, the transport directives were given from there, so this information must have been initiated from T-4, and there the separation between the German and non-German was made.

Q But you, yourself, do not know exactly where that sorting out of non-German nationals took place, do you?

A No, I do not know where it took place. It is my conviction that

it could only have taken place at the central agency because only there did the questionnaires arrive with the designation "foreign", and only there did they have the possibility to separate these questionnaires, Germans and non-Germans.

Q. And, that was before the questionnaires were photostated; was it not, Herr Brandt?

A. According to my opinion that occurred before the questionnaires were photostated. The judgment and expertizing of those questionnaires was superfluous and foreigners were to be excluded.

Q. If you do not know exactly where the Germans and non-Germans were sorted out, how can you swear to this Tribunal that non-Germans nationals were not actually transferred to a Euthanasia Station?

A. A guarantee which enables me to say that is the order which was given to Bouhler very clearly, and which I am quite certain he executed. I think it is quite out of the question that when he received the order to exclude foreigners that he should have them included.

Q. But, that is an assumption on your part, Herr Brandt? Is that right?

A. I cannot repeat it in any other manner than I have just said it.

Q Now, Herr Brandt, we have talked about these questionnaires and the classes of persons about whom they were filled out; and you have testified that it made no difference whether a man worked or not; that they filled out the questionnaire on him. You further said that it made no difference whether he was a German or a non-German; there was no distinction made between the two and questionnaires were filled out under the same circumstances for both classes of persons. Is that right?

A I said that it was my opinion that it was so.

Q I want to show you now Document NO-825. This is Prosecution Exhibit 358. It appears on page 216 of the English Document Book, Number 14, Part 2. Herr Brandt, I want you to turn to page 3 in that document where it says up at the top, "Instruction Leaflet." Do you find page 3 of the original, Herr Brandt, where it says "Instruction Leaflet"?

A Yes. Yes, I have found it.

Q "Instruction Leaflet. Read carefully before filling out the questionnaires."

A Yes.

Q There was an instruction leaflet sent to the asylums, was there not, advising them how to complete those questionnaires?

A Yes.

Q And this instruction leaflet tells them upon which patients the questionnaires are to be completed, doesn't it?

A Yes.

Q Let me read to you the first paragraph: "All patients are to be enumerated who (1) are suffering from the following illnesses and cannot be employed, or for mechanical work only, plucking or similar work, in the institution."

Now, Herr Brandt, doesn't that instruction say quite clearly that those persons who suffer from the illnesses enumerated but who can be employed, who can work, are not to be enumerated or are not to have questionnaires filled out on them?

A I look at it in the following way. These persons had to fill in the questionnaires when they were afflicted with these diseases and, referring to Paragraph 2, when they had been in the institution for five years.

Q Now, Herr Brandt, let's not play with one another. You can read the German language; and I don't want you to make a statement which is not true on the face of the document. Now isn't it true that Paragraph 1 and Paragraph 2 are mutually exclusive? Isn't there the word "or" between Paragraph 1 and Paragraph 2?

A Yes.

Q All right, let's forget the answer you were about to give and divert our attention to Paragraph 1. Doesn't it state there that questionnaires are to be filled out only on those persons who have the enumerated illnesses and who cannot be employed, or for mechanical work only, plucking and similar work? Isn't that what it says?

A Yes, that's what it says there.

Q Then your testimony was quite incorrect that employment or ability to work played no part in the euthanasia program except insofar as it permitted a diagnosis of the patient? Isn't that right Herr Brandt?

A The question of output of work as such is not listed because of the effect of the work but is listed in order to judge the health of the patient and condition of the patient. If a patient is in a situation where he can work in an institution and work in factories, as is sometimes the case with people with epileptic disease, it shows that he can under no circumstances be so severely ill that it would warrant his falling within the framework of this euthanasia program. Therein I do not see an intensification; but I see in it a safeguard in that the people who were only mildly ill but who were still in need of the institution should be excluded. It has, however, nothing to do with what the patient actually puts out in the form of work.

Q Now, Doctor, you don't seriously suggest that you cannot have persons very severely ill, incurably ill, of the diseases here listed, yet who are able to perform some work; and you are trying to insist to this Tribunal that you

can automatically state a priori that if persons with those illnesses can work then there is no justification for putting them to death. The point seems to be that if they are afflicted with the same illnesses and for one reason or another cannot work, then you put them to death; and I'm asking you if then one of the most decisive considerations is not the illness as listed in Paragraph 1 but the ability of the person to perform work.

A The ability work can only be considered when

considering the condition of the patient. It is quite absurd to think of the output. The output of work as such makes no difference at all. It plays no part. Even if it is productive, it is not decisive because whatever a man can do in such an institution is only small errands.

Q What was it that you said wasn't important, the output?

A I said that it was not important, that the output of work was not important, and with that I understand the calculable value of the work because it plays no part whatsoever inasmuch as there are only small tasks being performed in such an institution. The output of work can only be considered when you consider the ability to work which in turn is the condition of the patient.

Q Now, Herr Brandt, let's turn back to the questionnaire itself, one page back in the document book. Do you find now at the bottom where it says "Kind of Employment"?

A Yes.

Q They apparently thought output was important for the diagnosis of the insane person because it reads "Kind of Employment, most precise designation of work and output; for example, agricultural labor, does not do much, or a locksmith, good specialist; no vague statements like domestic work, but particular ones, room cleaning, and so forth; also state always whether employed continuously, frequently, or only temporarily". Now, I think that they were very much interested in knowing quite a lot about the ability of this person to perform work, and I suggest to you that they were interested not for reasons of diagnosing the condition of the patient's mind or the nature of his illness, but to find out his value as a useful work to the German war machine. For instance, a locksmith, good specialist, who could make bomb fuses or the parts for a V-1. Do you reject that suggestion?

A Yes. I think it is out of the question that an insane person could be used for the production of V-1's or V-2's. This reference here in my opinion is in connection with a reference on page 2, number 3, where patients are listed who were in those institutions ever since five years before. If a man is in one such institution for five years, it is under the circumstances

quite possible that he had even been there for longer, and it is possible the he worked in such a factory and that this reference is concerned with his output of work and as such should be taken into consideration when judging the condition of the man.

When it says here, "working as a locksmith", etcetera, one would have to investigate what actually was produced in these locksmith's workshops of the institution. It is simple repair work which is being carried out there. Partly they were used for therapeutical measures.

Q Witness, what diagnostic judgment did you draw from the fact that one patient who had schizophrenia for five years could have a good output of alarm clocks while another patient with the same disease for the same period of time could make wood carvings, wood stoppers for bottles, with a reasonably good output. Now, what diagnostic judgment can you draw from those two hypothetical cases?

A None whatsoever.

THE PRESIDENT: The Tribunal will now recess until 1:30 o'clock.

(A recess was taken until 1330 hours)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL: (Counsel for the Defendant Oberheuser): Mr. President, the Defendant Oberheuser does not feel well and, therefore, she requests permission of the Tribunal to leave the court room at 1500 hours.

THE PRESIDENT: In view of the physical condition of the Defendant Oberheuser, she may be excused at 1500 hours in accordance with her request.

KARL BRANDT (Resumed).

CROSS EXAMINATION (Continued).

BY MR. McHANEY:

Q. Herr Brandt, we were examining before the luncheon recess the instructions on filling out the questionnaires and we saw in paragraph 1 that no questionnaires were to be filled out on those persons who were capable of employment, isn't that correct?

A. It was done in such a way that after the first paragraph —
(Document book handed to witness)
—yes, that is correct.

Q. Doesn't that seem to be a bit inconsistent with your statement that these questionnaires really constituted a registration of all insane patients?

A. That does not refer to all mentally insane patients but only to those who fell within that framework. In my opinion even patients who were sick for short periods were not reported so that a registration of all patients by means of these questionnaires was not possible anyway.

Q. Tell Herr Brandt, that was what I had suggested to you this morning, namely, that these questionnaires were filled out on those persons who would be subjected to euthanasia if they fell within the judgment of the experts as being incurable, and as I recall you rejected that suggestion of mine.

A. I don't think that I have understood you correctly at the moment. The questionnaires were filled in for the purpose in order to establish

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general basical documents, in order to register all the patients who might be made available to euthanasia. And within the group of persons registered in this way, and whose registration took place on the basis of their physical condition, there were several exceptions; and in order to determine these

exceptions certain information which exceeded those fields, which exceeded the medical fields as, for example, to their being injured in the course of the war, etcetera.

Q Herr Brandt, since those persons who were afflicted with schizophrenia, epilepsy, and the other diseases listed in paragraph 1 were not reported on, that is, questionnaires were not completed on such persons if they were capable of work, I have considerable difficulty in understanding why you insisted that questionnaires on Non-German nationals be completed. Why weren't they also exempted on the same ground that other persons were exempted, because of the ability to work?

A In the same respect the war invalids were not exempted either and that had to be registered separately. This certainly has nothing to do with regard to their transfer to a euthanasia institute. I take it from your question that you are of the opinion that the reference on this questionnaire that Non-Germans are considered in this case was deserved to the fact in order to recognize a group of patients in such a way then, under the circumstances, to have them subjected to euthanasia. You have not expressed that but apparently your question is pointing to that fact. I have previously stated in connection with that the the foreigners were to be exempted under all circumstances. I only want to have these references understood to the effect that they were made in order to be able to determine these exemptions, that they were not to be subjected to euthanasia, and that they were not to be subjected to euthanasia perhaps for reasons of another disease.

Q Well, Herr Brandt, you will concede that the most effective way of seeing to it that Non-German nationals were not included in the program would have been a simple order that no questionnaires were to be filled on such persons, wouldn't you say so?

A That depends what place you believe to have the most security. No doubt it can be argued and disputed if it could be done this way or another way. Perhaps there is even a third possibility that might have been used. If this procedure was followed here in this form, then it certainly is in connection

with a general registration about transferring the mental institutions, but certainly not with any other intentions.

Q Herr Brandt, by dropping down to paragraph 2 of the instructions, isn't it true that the questions concerning ability to work came into play only when the patient had been in an asylum for at least five years?

A I only believe that this also held in the diagnosis and judgment because with reference to the kind of occupation the difference was made if the person could constantly work, frequently, or temporarily. In any case, it was only the possibility of contacts which a subject might have to his surroundings. And certainly those were not the sole reasons which led to the judgment of diagnoses. But they could only be evaluated in connection with the other statements which had been made also.

Q. Witness, I am simply trying to make clear who was excluded from the program on the basis of ability to work, and we see in paragraph 1 that anyone who could be employed was not reported on - did not have a questionnaire filled out on him. Then we drop down to paragraph 2 which says, "All patients are to be enumerated who have been in an institution constantly for at least five years" and it is on that category of patients that the question of ability to work comes into play. If the patient had been in the asylum for only three years and, in the judgment of the chief of the asylum, could be employed or could work, then no questionnaire was filed. But if the same patient had been in the asylum for five years or more they had to file a questionnaire and then and only then did the questions in the questionnaire concerning ability to work come into play. Isn't that correct?

A. The questionnaires have to be understood that way and then what I have just said is correct.

Q. All right, that is sufficient. So we exclude, under paragraph 1, all of those who have not been in an asylum for at least five years and who are able to work. No questionnaire is filed. Paragraph 2 - if they have been in an asylum for five years or more then a questionnaire must be filed and the questions in the questionnaire concerning ability to work are filled in. Now then, on the questionnaire under the questions dealing with employment and ability to work, is it not true that those persons who could be employed in a skillful employment, skillful work, and who had a reasonable output were excluded?

A. Were exempted from euthanasia or exempted from filling in the questionnaires?

Q. Exempted from euthanasia.

A. If such people were able to carry on some special work within their respective institutions then this was proof of the fact that their physical condition was probably not so bad that they were dis-integrated personalities.

Q. Very well. I think then that the picture comes a bit clearer that the ability to work was a very substantial consideration in the operation of this program and a great deal of weight was placed upon the question of ability to work. Is that true?

A. That depends on how you interpret the words "ability to work" and on what the most emphasis is placed. The decisive point is that it may be used as a reference, together with other statements, if the patient is psychologically or severely ill or if he is not severely ill but then his work has nothing to do with the effect arising from the work. That is, if the man plays a part in the war potential or not and in this case the statement contained in question 1 certainly does not have any connection but is only there in order to serve as information - additional information as to the picture of the disease.

Q. Let's turn now to one of the other questions in the questionnaire namely that concerning race. Do you find that question?

A. That is on Sheet 2.

Q. The footnote is on Sheet 2. The footnote reads, "Of German or German related blood; of German extraction; Jew, partial Jew of Grade 1 or Grade 2; Negro, partial Negro; Gypsy, partial Gypsy; etc." Now, what was the point in having the race of the patient reported on?

A. In my opinion, that could have only been used for an evaluation in the statistics. I cannot see any other reason for it.

Q. You can see that it was not needed by the expert in diagnosing the patient's condition and thus determining whether or not euthanasia should be applied?

A. That would have nothing whatever to do with it. I cannot remember either, but I know it has been discussed - that I have been asked about it - if Jews were exempted from this program. I cannot remember if this has been the case. I would not know in this case either as far as Reich Germans were concerned.

Q. Well, I am not suggesting to you, Herr Brandt, that under any properly enacted law - valid law dealing with this subject or any other subject that German Jews should be exempted, but I put the question to you of what is the value of building up another category of persons in these questionnaires? That is, distinguishing between a Jew and an Aryan? What possible pertinency does the answer to that question have to the determination of whether euthanasia shall be applied?

A. In my opinion, it does not have any special value whatsoever. I have just said that I am of the opinion that this was only a matter for the statistics. That it was not a question, which on the basis of the statements, would have had any influence whatsoever.

Q. Of course, witness, you will concede that the question would have a great deal of pertinence if in fact euthanasia were being used as a method of exterminating the Jews, wouldn't you?

A. If that had been the case, a certain basis would have been established in this way. That is quite possible. However, Negroes and Gypsies are stated here and also "of German and German related blood". I have nothing to add to what I have previously stated or nothing came to my knowledge that such statements would have been used for any other purpose than for statistics, aside from the fact that I do not know the very close details of these questionnaires and, above all, the enclosures with further explanation and instructions and I have just seen them through these documents. I only know about the references to what extent these questionnaires might serve to assure against ~~incorrect~~ diagnosis.

Q. Witness, since you mentioned Gypsies, I think there is some reason to believe that the German Reich indulged in some discrimination against Gypsies as well as Jews. So there again that category of persons might possibly be of interest to T-4 and other operators of the euthanasia program.

A. I have never known T-4 in any other capacity than as an establishment which was connected with euthanasia - on the basis of Decree No. 39.

Q. Now, Herr Brandt, let's go back to the instruction leaflet and I ask you to look at paragraph 4 where it reads that " all patients are to be enumerated

who are not of German nationality or are not of German or German related blood, indicating the race and nationality". You will recall, Herr Brant, that I put a hypothetical question to you here, citing a patient of German nationality and a patient of non-German nationality who had each spent one month in an asylum. You stated that no distinction was made on the basis of nationality. I now ask you - don't you have to change your testimony in view of the fact that paragraph 4 explicitly requires that questionnaires be completed on any and all patients of non-German nationality?

A. I must correct myself in this form. However, I would still like to add that now as before I still maintain the opinion that the time of reporting these patients consisted of five years and, in this respect, I am also of the opinion that if the questionnaires had to be filled in by non-Germans that this probably served for some sort of statistical computation whose origin I do not exactly know. I cannot say why this was done.

Q Witness, we understand that you are insisting that no non-Germans were exterminated pursuant to the euthanasia program, but we are now trying to investigate why it was, firstly, that questionnaires had to be filed on any non-German nationals, and secondly, why questionnaires in fact had to be filed on all non-German nationals whether or not they fell in the foregoing 3 categories listed on this instruction sheet, which applied both to Germans and non-Germans.

A The reason, in my opinion, can only lie in some statistical evaluation. I do not know of any other reason why this formulation took place; it may be that as to other circumstances, also on the part of the Ministry of the Interior, there was a certain interest, but I do not know.

Q Let us turn to the next page of the document, Herr Brandt. The 5th paragraph, which reads: "In cases of patients being newly admitted after the deadline date, questionnaires are to be filled out as well and to be sent to me collectively every year, on 1 February for the deadline date of 1 January and 1 August for the deadline date of 1 July." Doesn't that paragraph state, in fact, that questionnaires were completed and sent in on patients who had been in asylums for one month or less?

A Yes, for subsequent reporting, yes.

Q The questionnaire, however, was completed on the basis of observation made over a period of one month or less in some cases, was it not?

A If the patients were not located in other institutions before then the questionnaires were then filled in with proper references and were sent to the collecting point.

Q And thereafter expertized?

A I do not consider this probable because after question 1 there is the reference as to how long the patient has been sick and in a further question there is a reference with regard to the condition of the patient. If these questionnaires were then passed on for diagnoses, it may be possible, but then the decisions of the diagnoses would have corresponded.

Q You have testified that 2% to 4% of the persons transferred to an observation station after an affirmative decision on euthanasia by the top

experts, were returned as ineligible and euthanasia was not applied -- is that right?

A As far as I can recall, there were 4% to 6%.

Q How do you know this figure so precisely?

A Bouhler informed me about it, that is to say, -- yes, it was Bouhler he informed me of the fact with the reasons which I also stated yesterday when I mentioned the subject.

Q Does this not indicate a rather remarkable analytical and diagnostic ability on the part of the experts, with only a two-page questionnaire to work on?

A I also asked myself that question at the time but I was assured that a proper questionnaire would be filled in by a specialist physician and that a diagnosis would be made by a specialist physician; furthermore, it was pointed out that where the description was not sufficient for the symptoms, corresponding differences could be made.

Q But you made no personal investigation into this matter yourself, did you?

A I had been told that it was possible on the basis of this questionnaire to obtain corresponding judgment of the condition of the patient.

Q Does not this mean, in effect, that the great majority of patients were assigned to death without ever having been seen by the experts who passed the judgment?

A The experts themselves never saw the patients. The experts themselves only reached the decision on the basis of the questionnaires.

Q And you seriously suggest to this Tribunal that a psychiatrist can actually determine from this short questionnaire whether a person is incurably insane, is that right?

A That he was to get a total impression as to the condition of the patient was assured to me by the specialist physicians who participated in this matter. After all, this was not the only diagnosis, for subsequently further medical examinations took place; in addition to this, outside of certain exceptions, they had been in an institution for a very long time so that

a clear picture could be obtained as to his condition.

Q But the first and last place where a patient was actually in a position to be physically examined was in the observation station, wasn't it?

A In the observation station and also at the euthanasia station, because patients have also been returned by euthanasia institutes.

Q As you had very accurate information about the percentage returned from observation stations, suppose you tell us the percentage that was returned from euthanasia stations?

A The number 4% to 6% can be applied, as far as I can remember, to both institutes, to the euthanasia institutions as well as to the observing institutions, although I cannot say if this was in every case 4% to 6%, or a total of 4% to 6%.

Q What instructions were issued to these observation stations and euthanasia stations about their right to over-ride the affirmative decision of the experts?

A Nobody was ordered to carry out euthanasia if he did not agree with the findings and in observing institutes no euthanasia was carried out at all.

Q But you do not know of any precise instructions that were issued to the observation stations and the euthanasia stations concerning their right to over-ride the opinion of the expert in Berlin?

A It was never a question at any place. The ordering of the doctors did not take place under the condition that they had to comply with the diagnosis but it was always determined in the opinion of the physician; there also the experts did not have to agree in their diagnosis.

Q How long did a patient remain in the observation station?

A That varied, in my opinion. The time could consist of several months; sometimes, as I have seen from the files here, it may have been from 4 to 6 or 8 weeks.

Q Well, your opinion was to that effect. Do you actually KNOW approximately how long these people remained in the observation station?

A I cannot state exactly how long they remained there.

Q How big were the observation stations?

A I cannot tell you that. As far as I know, they were whole institutions which had been established and furnished as observing institutions. I have never seen any of them.

Q You don't know how many doctors they had per number of patients in the observation station?

A No, I cannot tell you that.

Q You don't know anything about their training or how expert they were?

A These things were handled only by Bouhler together with the Ministry of the Interior. My opinion is that we dealt with mental institutions which in this case were uniformly established as observing institutes and where partial transports and larger transports were then sent to euthanasia institutes.

Q What precautions did you take that proper examinations would be conducted at the observation stations?

A Will you please repeat your question once more?

Q What precautions did you take that proper examinations would be conducted at the euthanasia stations?

A I myself have not issued any measures at all.

Q And you do not know by your own observation that Bouhler or anyone else took any precautions, do you?

A I am of the opinion that these positions were occupied by specialist physicians and that these specialist physicians had been instructed as to the activity and their responsibility which was connected with it.

Q Can you name any of these experts at the observation stations?

A I cannot give you any names of these physicians.

Q Witness, you appreciate the importance of the issue of the manner in which this euthanasia program was conducted, do you not?

A Yes, I know exactly.

Q And you appreciate that the only opportunity for personal examination by a doctor on the scene was at the observation station?

A Yes, certainly.

Q Wasn't it part of your duty and responsibility to make very sure that the proper type of examination was conducted on these patients who were being put to death?

A That certainly was not ~~my~~ task. In order to carry out this task I first of all would have had to personally visit these institutes and then I also would have had to obtain specialist training, neither of which was provided for me. I was neither able to personally visit the institutes nor did I have any specialist control or supervision.

Q. Yes, I was going to put that to you. Now, on the basis of the number of visits you made to the observation stations, which you admitted was none, are you in a position to tell the Tribunal anything?

A. I never visited any observing institutions.

Q. Yes, that is what I say, therefore, you cannot swear to this Tribunal about the manner in which the examinations were carried out there; can you?

A. I can only say that I am of the conviction that they were run in a professional manner.

Q. Can you tell us anything about your observations at the Euthanasia station?

A. I have visited one institution, that was at Grafeneck. At the beginning of the year or during the first half of the year 1940 I visited it. Few Patients were located there, there were approximately thirty patients there and I saw the patients. Then I visited the administrative office, which was established as a registration office. It was then discussed further how the question of the formal written correspondence program should function after the Euthanasia was performed. That is the only time I saw such an institution.

Q. Was there any one killed?

A. No.

Q. Do you know how these patients were killed in the Euthanasia Station?

A. They were killed by carbon monoxide.

Q. Do you know what was done with their bodies?

A. The corpses were then cremated.

Q. You saw the pictures of the Hadamar Institute in this Tribunal; did you observe the disinterment of large numbers of bodies from the general grave?

A. Yes, I have seen that.

Q. You spoke of the humane way in which these people were put to death; I cannot say that you are in a position to testify concerning

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that matter because of your lack of knowledge.

A. About the humane manner, will you please repeat that again?

Q I said I think you are unable to testify about the humane manner in which these people were put to death; isn't that true?

A I believe a big difference must be made between the pictures of Hadamar and between the Euthanasia Institutes, for example at Grafeneck. Hadamar with the corpses, who had not been cremated, certainly has nothing to do with the performance of Euthanasia, which was known until the end of 1943 and I say that for the reason that at Hadamar the corpses were not cremated, while the corpses, who were accumulated in connection with the Euthanasia program, were cremated.

Q Is it your opinion that the Euthanasia stations were operated in the best possible manner?

A I am of the opinion that they were conducted in the best manner, yes.

Q You spoke of relieving these patients from great pain and suffering; do you think all these patients wanted to die?

A That is a question which I cannot answer in this form. I am of the conviction that the patients did not have a clear concept of their actual condition because they were insane and among them were certainly cases, which in excess of that, certainly were suffering. It is quite possible that a human being, who might be described by the simple word "crazy", might under circumstances not even realize the difference between life and death. In this form, you cannot even include such people as to the question if they want to die or if they do not want to die.

Q I think that you will concede that possibly a substantial number of these victims were fully aware of what was happening to them; won't you?

A I do not think so. If I go back and remember the patients whom I have seen at Grafeneck, they were very poor creatures who were all confined to bed and certainly some others may have been there who could be up and were not confined to bed, however, for the most part they more or less would have been confronted with certain death.

Q I think you observed from the instruction sheet, which we went over together, that feeble minded persons and persons suffering from senility were subjected to the program.

A Such patients, feeble minded of course to a severe degree and also certain forms of senility could also be included in this group.

Q Did you employ a man by the name of Fritz Bleich?

A Bleich came into my office in 1942 or 1943.

Q What did he do?

A He worked for me in the registration office.

Q Registration of documents, mail and the like?

A The registration of general mail matters. Furthermore in 1944 when my office was moved from Berlin, he got the mail and brought the mail back to the city.

Q Which office was Fritz working in?

A He worked in my office.

Q Fritz Bleich?

A Yes.

Q You have stated that you had two offices in Berlin; one in the University Clinic and one in the Fuehrer's Chancellery. I ask you whether or not Fritz Bleich worked in your office at the Fuehrer's Chancellery?

A I did not have any office in the Fuehrer's Chancellery. I had my office in the Reich Chancellery and in the Reich Chancellery was located the Chancellery of the Fuehrer, the Ministry of Lammers and Meissner and there were still several other offices.

Q I am sorry, I made a mistake, I meant the Reich Chancellery where you did have an office. Was Fritz Bleich working in that office?

A No, Fritz Bleich did not work in that office. My office there consisted of three rooms, one had the telephone agency, one contained the secretary and my collaborators. Bleich came there somewhat later on and it may have been as late as 1943.

Q Now, I am asking you whether Fritz Bleich physically worked in your office in the Reich Chancellery or your office in the University Clinic?

A No, he did not work at the University Clinic.

Q And he was a clerk in the Reich Chancellery?

A He was employed by me in my office in the Reich Chancellery.

Q Herr Brandt, who would know more about the operation of the Euthanasia program; you or Fritz Bleich?

A I believe that perhaps Fritz Bleich may have more information about it.

Q Your clerk is better informed on these matters than you are?

A In this case, it may perhaps be possible.

Q If you consider the Euthanasia program to be in the interests of the patient and not for fiscal purposes, why were veterans of the first World War and those injured in the course of industrial labor exempt from this program?

A This question is in the field where I have to say is basically not correct. According to the conditions and the sufferings of these people, it is not right to make these exceptions, however, other considerations were decisive in this case, in order to have these exceptions made. There was the consideration that because of the war and also because of the conscription of labor, the mentality of the people towards such questions would be different than in cases where only pure insanity is concerned, and because of these considerations, the exception of the war invalids and the people injured in industrial labor and the actual point of view from which the thought of Euthanasia originated, it would not have been correct to make these exceptions.

Q You have testified that the euthanasia program would have no proper relationship to concentration camps, is that correct?

A Yes.

Q Why is that so, weren't there insane persons in concentration camps?

A I am of the opinion that there were no insane persons in the concentration camps.

Q Upon what do you base the opinion, did you make any investigation to find out?

A No, I did not. However, I maintain the natural point of view that somebody who comes into a concentration camp because of a political or other crime, would have no connection with a mental disease.

Q But you didn't inquire as to whether there were any insane persons in concentration camps when this program started, did you?

A No.

Q You heard the testimony of the witness Menecke about his visits to concentration camps, what say you about that?

A Menecke has testified that this examination, - I do not even want to call it an examination, was a medical measure, that he had the impression it was a purely political racial matter with which he had occupied himself in the case.

Q But Herr Brandt, Dr. Menecke was one of the operating experts under T-4 in Berlin.

A The program is I personally passed the material in 1941, and it was halted in August of that year. I do not know that after the program was halted that euthanasia was performed in one place or another on a greater scale. It is not clear to me either from what office or from what possibilities Dr. Menecke made his examinations or was able to carry out his examinations in the Buchenwald Concentration Camp. It certainly is not possible that it started with T-4, because from all that has been shown here that what took place in the concentration camps was the sole responsibility and was subject to the sole decision of Himmler. From the files concerning the subject it was shown that Herr Menecke received orders from his clerks in connection with the

Inspectorate for the concentration camps.

Q Now, Herr Brandt, you are a man of intelligence out of the ordinary, and I am sure you remember Menecke's testimony quite vividly. He was called to Berlin in January 1940, given instructions about what he was to do in connection with the operation of euthanasia. In the summer of 1940 he was instructed by perhaps the defendant Brack, who issued instructions to him on at least one occasion he testified, or Heppelmann, or one of the other people mentioned on the chart concerning the euthanasia program. He was ordered by them to concentration camps and to make examinations, and he testified that he visited a number of concentration camps from the summer of 1940 until January 1942, so these visits were started quite early in the program, and were carried out even after you say the program had ended in August of 1941. Menecke was not a concentration camp man. He was not under the direction or orders of Gleucks, Pohl or Himmler. He was a man working in the program which you assisted in setting up, and getting into operation?

A I can only say the same thing again on the subject, I thought that within the concentration camps there were no mentally insane persons and I have never heard or discovered that such examinations had been carried out in the concentration camps, and I have not heard anything about the fact that after the summer of 1941 euthanasia was still being continued by some other agencies. Of course I have not heard anything in this respect from the concentration camps. I am also of the opinion that the fact that Menecke has been sent to camps by order of T-4, that such a decision would not be made either by T-4, without Himmler setting it up such measures could not be carried out in any camp.

Q According to the testimony which Menecke has given here about the examinations in 1941 and the beginning of 1942, it certainly had nothing to do with the euthanasia program, as it had been determined with T-4 or either in the field concerned. Now, Witness, I don't wish to argue with you about it, but it is quite obvious it did have something to do with T-4, and Menecke's testimony was to the fact that Brack himself had ordered him to go to the camp; now, there is no dispute that the concentration camps were also in the program

and they had to cooperate and they did so, and I also will not argue with you about the code name, 14 F 13. The witness Menecke himself did not know that code name, but how do you explain the fact that these concentration camp operations could be carried out by personnel of the euthanasia program and they could be exterminated in an Euthanasia Institute like Bernburg without your knowledge, Witness?

A I cannot give you any explanation to this question. I cannot say because it is not clear to me in what manner and by what procedure T-4 participated and in what way the connection was established. I can only say I did not find out anything about it, and in addition I want to state if I had found out anything about it I would have done anything in order to stop such measures which later on degenerated into just a plain form of extermination, with all possibilities available to me. In my opinion it had nothing to do with the concept of euthanasia, and I cannot possibly explain it, -- first of all how this contact was established, and it is not clear to me with whom the orders for such measures were issued.

Q What was the explanation you gave on direct examination about the 14 F 13 order being sent only to concentration camps in Bavaria and Thuringia?

A I have stated here that my attention was drawn to the fact that the reference number 14 F 13 in connection with what Menecke has testified at one time, is concerning the district of Bavaria and then Hess and all Thuringia, and some document states that some people were sent from the concentration camp to the Buchenwald camp in this action, -- I think it was Buchenwald, and from there they were transferred to Bernburg, so that I am of the opinion that perhaps within certain areas under the Reich Defense Commissioners, are perhaps by order of Himmler, and in collaboration with Himmler; because they listened to these demands these results were carried out in this way. This is an assumption and perhaps a way to reach clarification on this point, I cannot say anything in addition about this subject.

Q You testified the program was stopped in August 1941 due to the resistance of the church and press; is it true you got the order for the discontinuance of the program from Hitler?

A Yes.

Q And then you passed it on to Bouhler?

A Yes, I passed it on to Bouhler by telephone.

Q Why is it the cessation order was given to you since your testimony here indicates you had so little responsibility in connection with the program

A I was situated in the Fuhrer headquarters, and I received the order from there because I was together with Hitler.

Q But the operation of the children's euthanasia continued until 1944?

A It was carried on until the fall of 1944, or the late summer of 1944.

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Q. Why was the distinction drawn between the two types of euthanasia?

A. Because in the question of the children we wanted to avoid and prevent the fact, also because of difficulties with their families and so on, that this should develop further. We wanted to kill and put an end to these deformities as soon as possible after they had been born.

Q. Now, I understood you say on direct examination that you continued in some association with euthanasia until 1942; is that correct?

A. Until 1942, no. Euthanasia was discontinued in the summer of 1941.

Q. And your testimony is that you had nothing further to do with euthanasia after August 1941?

A. That is something different. I have stated that in the year 1942 I resigned the authority which I had been given by the special decree. That refers to the authority with regard to the children of the Reich Committee.

Q. Well, that's what I was trying to get straight. Now, precisely when did you resign the authority which you received on 1 September 1939?

A. I resigned this authority in the spring of 1942.

Q. Well, you should be able then to give us some information about what happened to the personnel in T-4 and in other parts of the euthanasia program?

A. I cannot say that.

Q. You said questionnaires continued to be sent in and evaluated after August 1941; is that correct?

A. Yes, certainly the questionnaires continued to be worked on because this material was passed on to euthanasia institute. In this case it would be 1941.

Q. Did they continue to expertize the questionnaires?

A. I assume that perhaps they continued to handle them, but I cannot say it with certainty.

Q. In other words, they continued to do everything except execute the patients, is that right?

A. That may have been the case during the first time there, yes.

Q. Isn't this another one of these absurdities? Why were they going

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through all these useless motions when the German Reich was in such pressing need of doctors and other medical personnel?

A. I believe that the matter of the diagnosis were also discontinued, and only that for the time being a diagnosis was given because these questionnaires were still arriving and for the time being the personnel was still available and they were occupied with organizational matters. An office had been established and we wanted to restrain from dissolving it completely for the time being. That was the only reason.

Q. Well, does it seem a bit senseless to continue to file these questionnaires in view of the fact that it could normally be expected that thousands of these patients would probably die before the end of the war from natural causes or they might recover and be without --

A. That would have been senseless in part to continue with these questionnaires. I do not even know if these questionnaires were completely discontinued. I cannot say that.

Q. Were you familiar with the fact that the German Government was indulging in repressive measures against Jews?

A. At the time I did not know anything about these measures in the form as I know of them today. I did not know any more than what could be seen generally; that certain groups of Jews were first of all given a certain distinguishing mark and that later on it became generally clear that they had been settled in certain areas. Outside of this I did not know anything.

Q. You did not know that Jews were being systematically exterminated?

A. No, I did not know that.

Q. Do you now admit that they were, in fact, systematically murdered?

A. No, I did not know it.

Q. I am asking you if you now know it?

A. Yes, now I know that this has happened to a great extent. Through this trial and after I was arrested it came to my knowledge. I did not know of it before.

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Q. Herr Brandt, how do you explain that the extermination of some sixty thousand Germans, using your own figures, in the euthanasia program was common knowledge in Germany as the proof in this case has shown, while a man in your high position did not know that Jews numbering in seven figures were being executed?

A. I do not believe that a number of seven figures was generally known in Germany.

Q. Well, will you make an admission about something less than seven figures?

A. No, I do not want to do that either, but I only want to point out in this way that the number as such is not the decisive factor because if sixty thousand insane persons were known, then, of course, the seven figure number of the Jews would most certainly have been generally known, but this has not been the case. The fact that euthanasia became public -- that can be traced back to the opposition by the church and the fact that the church discussed these questions, and therefore it became known more concretely with regard to the Jews. I have not heard anything like it. I am convinced that the number of those who had never heard of it or who did not know anything about it within the Reich will be enormous, certainly within the Reich.

Q. I take it from your statement that the reason for that is that there was no opposition to the Jewish extermination?

A. It just was not known.

Q. Herr Brandt, did you issue orders directly or indirectly to the Patients Transport Corporation for the transfer of inmates?

A. No, I did not issue any such orders.

Q. Is the name Blankenburg familiar to you?

A. Blankenburg, yes.

Q. Did you give Blankenburg orders directly or indirectly for the transfer of inmates of insane asylums to euthanasia stations such as Grafeneck, Hadamar, Hartheim, Bernburg?

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A. No, I did not give him any such orders.

Q. After the euthanasia program allegedly came to a stop in 1941 did you ever issue orders directly or indirectly to one of the euthanasia stations that inmates of insane asylums should be transferred to these stations?

A. No.

Q. I would like to put to you Document NO-892.

MR. McHANEY: If the Tribunal Please, it might be appropriate to take the afternoon recess at this time until she can locate the exhibit.

THE PRESIDENT: The Tribunal will be at recess for a few minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session. May it please Your Honors, Defendant Oberhueser is absent this afternoon having been excused by the Tribunal earlier today.

THE PRESIDENT: The absence of the Defendant will be noted for the record, absence pursuant to excuse.

BY MR. McHANEY:

Q. Herr Brandt, I want to put to you Document No. 392. Herr Brandt, this is a letter on the letterhead of the General Patients Transport Corporation dated Berlin, 20 July 1943, to the mental institution, Hadamar near Limburg/Lahn. It reads as follows:

"In the course of the evacuation of institutions situated in the Western territory of Germany endangered by air raids, I order transfers of insane persons to your institution also, this by order of Professor Brandt, the Commissioner-General of the Reich for Medical and Health Services.

"You will get the 20th of July, 1943, one hundred fifty insane women from the mental institution Hadamar if the Reichswehr will furnish the necessary cars as requested. The transport will be accompanied by about twelve persons as nursing personnel. I request you to provide for housing and feeding of the accompanying personnel if they are not able to leave your institution before the following day in order to return to their original institution.

"In all matters of bills and expense accounts which might result from the transport of the patients, I request you to address the Central Clearing Office for mental institutions, Mergartenstrasse 4, Berlin W 35, referring to the fact that the transfer has been carried out by the General Patients Transport Corporation.

Heil Hitler."

And I submit to you that the signature is Glanzenberg. In view of this letter, don't you now wish to change your testimony to the effect that you never did issue any orders to Plankenburg concerning the movement of insane persons to an euthanasia station?

A. This letter certainly cannot be considered to be in connection with

the Euthanasia station. In the year of 1943 the Air Raid Precautionary Committee, which I touched upon yesterday, was already activated. This was an institution which was activated according to a Reich decree. In this Air Raid Precautionary Committee there were Dr. Conti, and I was also a member of that Committee, and in this Air Raid Precautionary Committee I was included because I was already in charge of these special hospital institution

If in this case the Charitable Patients Transport Company participated, they did so because of their transport facilities, because otherwise no transport would have been available. This morning it was already mentioned that this transport which was available had to be specially committed during the winter catastrophe of 1941-1942 with the Group Center. I assume without remembering the details in that connection that we are here concerned with the same thing, namely, that considering the hospital damages which we had in the West and which then extended to the rest of Germany, a transfer had to be carried through. The name of the Institution Hadamar became known to me through the trial last year, and I do not know where the Institution Warstein is located.

Q Do you know whether these one hundred fifty insane persons were exterminated at Hadamar?

A I don't know that and I don't believe it, and it is not known to me that the patients would have to be sent there. This letter does not clarify the situation at all. I merely wanted to point out what it says at the top, the evacuation of air-damaged territories. Maybe you could tell me where Warstein is located.

Q I do not know, witness. However, you will recall, I think, that the form letters issued from the Patients Transport Corporation concerning Euthanasia in 1940 and 1941 usually carried such words as, "Due to planned economy, we must order the transfer of so many patients to such and such a place." You recall that don't you?

A Yes.

Q Do you deny that this letter is in fact an order from the same Patients Transport Company, transferring insane persons from an asylum

to the Euthanasia station at Hadamar?

A According to the letterhead we are concerned with the Charitable Patients Transport Company, GMBH, one of the sub-department of T-4.

Q And, moreover, T-4 covered the movement expenses, didn't they?

A The expenses of the entire Euthanasia Program were dealt with by an advance of Reich Treasurer Schwarz, and these were then accounted with the State. It says here that questions of account have to be dealt with that agency, that is, with reference to transport.

Q Well, Schwarz advanced monies to T-4, did he not?

A Yes, Yes. That was so.

Q Had T-4 was paying for the transfer of these insane persons to Hadamar was it not?

A Yes. It was so as can be seen from the letter.

Q. Did you have any supervisory control over insane asylums in Germany, either during the operation of the Euthanasia Program up until 1942, or thereafter by virtue of being General Commissioner?

A. No, I certainly had no supervisory duties regarding these institutions.

Q. Did you have any authority to give orders and instructions to the doctors of such insane asylums?

A. I do not remember ever having issued such an order to any such mental institutions. I cannot remember any one such event.

Q. Did you ever issue any such orders to directors of asylums through the Reich Committee or any other agency of the Euthanasia Program?

A. I do not remember. We could have been concerned with questions of information. Although, I do think that they would have been passed on to Doctor Linden. However, I do not remember any such incident.

Q. Did you ever intervene for victims of the Euthanasia Program, so that they might not be killed?

A. Since I was only in one way concerned with reference to these Euthanasia institutions, such a question could only refer to a conversation I had with Pastor Bodelschwing regarding his patients. That, according to my recollection occurred in the year of 1940 -- 1940 or 1941, I am not quite sure.

Q. Now, Herr Brandt, you have had sometime to consider this subject very carefully. I am asking you if you ever intervened for the victims of the Euthanasia Program so that they might not be killed?

A. I do not believe that I intervened in that matter since I was always in full conformity of the idea of Euthanasia. We can only be considered with discussions in Bethel, as far as I think, that is where I spoke to Pastor Bodelschwing. And, this discussion which I carried on with him was decisive, not finally decisive but helped to decide the stoppage of the entire action. I do not remember having intervened on

any other occasion or in any individual case, or having given any normal directive. I really cannot remember.

MR. McHANEY: If the Tribunal please, I have put Document No. 0892 to the witness, and would like to have it admitted in the record at this time as Prosecution Exhibit No. 442. Heretofore, it seems that the proper

procedure would be to mark the exhibit for identification with a number, and admit it as an exhibit later. Does the Tribunal think it would be desirable to put an exhibit number on it for identification or would the identification number 0892 be satisfactory. My own point of view is I have noticed heretofore that the Tribunal desired that the Defense Counsel have their documents normally admitted during the Prosecution's case. I do know that before the IMT that the Prosecution's documents and as far as I know also the Defense documents were, in fact, admitted into evidence during the Defenses case. And, I am just afraid there might possibly be some slip up in the latter stage of the trial and we might not formally get these documents into evidence. If the Tribunal sees any serious objection to it, I am perfectly ready to reserve until a later time to put them in, but it might be best to have them normally admitted at this time.

THE PRESIDENT: The Tribunal is of the opinion the better method would be to mark it for identification with the number it would have if it was now received as an Exhibit, and then hold by the Prosecution to be offered as an exhibit at the appropriate place at a later time.

MR. MC HANEY: Very well, your Honor, I would like for the record to show that Document No. 0892, which was the letter I have already put to the witness, be marked as Prosecution's Exhibit No. 442 for identification.

THE PRESIDENT: The Tribunal calls the Counsel's attention to the fact that the copy of the document submitted to the Tribunal is incomplete. It does not correspond with the copy of the document the Counsel read to the witness. Some paragraphs are lacking, apparently.

MR. MC HANEY: I will be glad to have that checked into, your Honor.

THE PRESIDENT: It is the same in substance, but it is not identical with what the Counsel read.

BY MR. McHANEY:

Q Witness, in view of the testimony you have just given, I wish to put the document to you, Document No. NO 890, and I will ask that the record show that this document has been identified as Prosecution's Exhibit No. 443 for identification.

(A copy of the document was handed to the witness.)

Herr Brandt, this letter is dated Berlin, November 16, 1943, and from the letterhead of the Reich Committee for Research of Hereditary and Constitutional severe Diseases. It is marked confidential, and it is addressed to Oberarzt Dr. Schmidt, Sanatorium Eichberg. You remember Dr. Schmidt's testimony before the Tribunal?

The letter reads as follows:

"Re: Inmate Anna Gasse from Frankfurt/Main

"Dear Dr. Schmidt:

"On the basis of a letter directed to Professor Dr. Brandt concerning the above mentioned I request an elaborated diagnosis about the mentioned Anna Gasse who is reported to be at your institution at present. At some time the Oberpraesident at Wiesbaden was concerned with that matter. It seems that the relatives of Anna Gasse try to obtain her release by every possible means. If from a medical point of view such release is warranted, one could take into consideration whether one should not perhaps comply with such request in the interest of the good reputation of the institution.

"Heil Hitler

"Signature: illegible."

Now, Herr Brandt, will you not again have to change your testimony? Did you not, in fact, intercede for punitive victims of Euthanasia? Did you not, in fact, get in touch with the Reich Committee and through them, with the director of the Eichberg institution?

A I assume that we are concerned here with a letter directed to me by a member of the Gasse family, and I think I probably passed this letter on with the directive and request to submit a detailed diagnosis about the condition of the child, probably in order to enable me to inform the parents about this matter or let the doctor inform the parents. Since I know nothing about the further developments of this letter, I cannot make any other statement about it. This letter can only express that I personally passed on the letter which was directed to me to the agency which dealt with the question of research of hereditary and constitutional severe diseases; nothing else, as far as my opinion goes, can be seen from this letter. I cannot remember the incident with that child, nor do I know whether I received any concrete reply in that connection.

Q But, witness, it is true that you were injecting yourself into euthanasia matters at as late a date as November, 1943, is it not?

A I would probably even have done that in February of 1945. If I was addressed personally I always tried to deal with these matters and reply personally and if I had perhaps the impression that something was not quite in order or quite clear it would have been a matter of course for me to investigate such an incident. I believe that quite concretely I have done so in this case. The letter starts, "On the basis of a letter directed to Professor Dr. Brandt". Certainly, some such letter was directed to me personally. I didn't merely put it away, but in this case I requested to receive an elaborated diagnosis.

Q But, Doctor, I have put the question to you whether you had any authority in regard to these matters. You state "No", and now you tell me that you gave instructions that there would be an elaborate diagnosis of the possible victim, Anna Gasse. Isn't there a little inconsistency there?

A I see no inconsistency. It is a matter of course that whether I have authority or have no authority that whenever I gain the impression that something is not quite in order that I should try to do something and clarify the matter as far as I can. In what way exactly I did that probably differed according to the special situation which prevailed. I don't know to whom I passed this matter and I assume this letter is correct. The signature of this letter is not very clear. It is certain, however, that after this matter was pointed out to me through this letter I did everything in order to clarify it. This has nothing to do with the authority as such.

Q But, in any event, you forwarded a letter to him without knowing who he was?

A I probably passed it on to Dr. Linden.

Q What would you have done if you had ascertained that there had been an improper diagnosis in the case of Anna Gasse?

A That is a question which retroactively after a period of four years or three and a half years I could not answer very clearly. In any event I should have tried to find a correct way of dealing with it - a correct and simpler

way - but I cannot say what we were concerned with at that time. Consequently, I can't answer the question which you put to me.

Q Well, witness, isn't it perfectly clear what we're concerned with. I take it that the question was whether Anna Gasse was to be improperly executed. Her relatives - her parents were showing some concern in that matter, and I ask you if you had ascertained that there had in fact been an improper diagnosis and that she was about to be improperly subjected to euthanasia what would you have done?

A At first I would have made a report to the Fuehrer and in any case I would have notified the Reich Ministry of the Interior, in this case Linden's agency, but all these are assumptions. But one cannot see from this letter that any such question could have arisen. It only appears from this letter that the members of the family had some desire that this child be released, but it could well have been that I wrote to the parents after I had confirmed that request, and I think that is a matter of course that I would have tried to convince them about the correctness of euthanasia. But the decisive thing is that with reference to the children belonging to the Reich Committee the approval of the parents was necessary. It may be that in this connection the parents did not give an approval and for this reason a letter came to me.

Q Dr. Brandt, are you seriously suggesting that no children were subjected to euthanasia without the consent of the parents?

A According to my knowledge the approval of the parents was absolutely necessary and had to be given, and it was the task of the agency of Linden to establish connection with the local physicians in order to get that approval. At that period of time I heard of no case where a child received euthanasia without the approval of the parents. The fact that the parents were told that it was done on the basis of approval is something completely different.

Q Now, witness, this is the first time that I have ever heard mentioned in connection with the euthanasia program that anybody's consent had to be obtained and I take it that it is a rather fundamental matter. Are you ready to swear to this Tribunal that the Reich Committee never performed euthanasia on children without obtaining the consent of the parents of the child?

A I said yesterday that the approval of the parents was necessary for the euthanasia of children, and I am of the opinion that such an approval was actually given.

Q Was the approval written approval or verbal approval?

A That I don't know. I cannot say that.

Q Have you ever seen any written approval?

A I believe that during the first period, when this authorization was submitted for signature to Bouhler and me, all the other papers were together with it, such as approvals, etc. It may be that during the later period we were only concerned with the authorization papers and that the other papers were left with the Reich Committee. However, I did see such letters of approval but I don't believe that they were in every case in writing but I think they were partly given orally through the local physician or other agency which dealt with that case.

Q Well, witness, let's look at this letter again. I find some difficulty in reconciling your testimony about the necessity of consent by the relatives of the child with what's written here in this letter. For example, the third line reads. "It seems that the relatives of Anna Gasse tried to obtain her release by every possible means." If, witness, it was necessary to obtain consent why was there any question about releasing Anna Gasse?

A I cannot say that either. According to my opinion, the child could not be kept in an institution if the parents wanted it at home.

Q And the last sentence which reads, "If from a medical point of view such release is warranted, one could perhaps take into consideration whether one should not perhaps comply with such request in the interest of the good reputation of the institution." Don't you find that language just a bit restrained, witness?

A Yes, I think it is very restrained.

Q Let's pass on to another matter.

What happened to the insane asylums in Poland and in Russia in the areas which were overrun by the German army?

A I cannot say what happened to these institutions. I saw one single institution in Winiza which was completely evacuated since Wehrmacht units had moved in. Otherwise, I saw no other institutions for mental patients and I don't know what happened to them.

Q Doctor, you had authority under the order of 1 September 1939 up until the Spring of 1942. By that time all of Poland and a substantial part of Western Russian had been overrun?

A Yes.

Q Didn't you obtain information about what was being done with the patients in Polish and Russian asylums?

A No, I received no information about it.

Q Do you know what happened to them?

A No, I don't know that either.

Q Do you know whether euthanasia was extended to such areas?

A It is not known to me that euthanasia was extended to these territories.

Q Suppose we get your reaction to Document NO. 1758.

Witness, the document which has been handed to you consists of extracts taken from the diary of General Halder and I would like to direct your attention to some of these excerpts.

I ask that this document be marked as Prosecution Exhibit 444 for identification.

Do you see the excerpt taken from Volume VII, page 92 of the original, dated 21 September 1941?

A Yes.

Q It reads "General Wagner (Quartermaster General)" and then Item d says, "Attitude towards the inmates of insane asylums in the occupied territory." Do you find that?

A Yes.

Q And then on page 100 on 26 September 1941 "General Quartermaster Wagner" Item h "Insane asylums in area of Army Group "Nord". Russians consider feeble-minded people holy. Despite of that, killing necessary."

A Yes.

Q And on page 106, "October 1, 1941, General Wagner (Quartermaster General).....Insane asylums Nowgorod....." Does this document indicate to you that Euthanasia was extended to asylums in Russia?

A It says here, "Despite of that, killing necessary" that is under the 26 of September 1941. I did not speak to General Quartermaster Wagner nor with Mr. Halder regarding these questions. I did not speak to him nor did he approach me so that I can say nothing further regarding these 3 indications than what is seen anyway. I do not know who was supposed to carry through this killing and I do not know what this one word "Insane asylums Nowgorod", that is the 1st of October 1941, means; this is just one word. It can well be the case that this was merely discussed or that something should happen there, but I do not know.

Q HerrBrandt, how much time did you spend in the Fuehrer's Headquarters on the Eastern Front?

A From 1939 until 1942, with very short interruptions, I was there. Later, the reverse was true. I was there on lesser occasions and was more on the way -- on journeys.

Q And you also have related to the Tribunal that you made an inspection tour in the front areas of the Russian Front before Moscow in 1941, the winter of 1941?

A In the winter of 1941, that is from the 7th until the 10th of January, I was there.

Q And you were never consulted in the Fuehrer's Headquarters about extending euthanasia to asylums in Russia?

A No. I did not take part in any conference where General Oberst Halder was present. I did not participate in any conferences where General Quartermaster Wagner was together with the Fuehrer. All this took place--those discussions of this kind, which were called discussions of the situation -- took place somewhere else and I did not participate in them.

Q Do you find it curious that euthanasia was extended to Russia without consultation with one of the leaders of the euthanasia program in Germany itself?

A I must say that I was not included in that program and I was not informed by the Fuehrer about this question. It was never under discussion.

Q Herr Brandt, after 1942, don't you think that you had sufficient power and authority to put a stop to killing of Eastern workers in euthanasia institutes?

A I did not know anything about it. I did not know that Eastern workers were killed in euthanasia institutions. Consequently it was not possible for me to do anything against it in any form whatsoever. If I had learned that healthy persons were killed in these institutions I am sure that I would have done everything to prevent it, not only because these were institutions for the sick.

Q Herr Brandt, let's move along to a different subject. I listened to your testimony with respect to your own power and authority as General Commissioner and Reichs Commissioner and also as to the power and authority of the Defendant Handloser and the Defendant Rostock, with great attention, and from the picture you have drawn it seems that one must conclude that you had very little authority and very little power; and that although Handloser was appointed as Chief of the Medical Services of the Wehrmacht in July 1942, he really was not Chief of the Medical Services of the Wehrmacht because he didn't have any power; and although Rostock was Chief of your office for Science and Research, he had no concern with matters of science and research and that that was just a gross misnomer, and was really concerned only with the matter of economy and the allocation of medical supplies, except that it may have had some passing concern with trying to keep medical schools open. I would like to investigate with you some of those matters now and I suggest that we first discuss for a moment the position of the Defendant Handloser. He was the Army Medical Inspectorate from 1941 until September 1944, was he not?

A You must take into consideration the double position which he held by being Army Physician and Army Medical Inspector. In his capacity as Army Physician he was tied to the OKH; in his capacity as Army Inspector he belonged to an institution which belonged to the Home Territory. Since Generaloberstab-

sarzt Handloser was tied to the OKH, his position as Army Medical Inspector was administrated by him together with the OKW and this position he held, I think, up until August of 1944, when, on the strength of a new decree, this union was separated and he himself became, in 1942, the Chief of the Medical Services of the Armed Forces.

Q Witness, which branch of the Wehrmacht had the largest medical service?

A Certainly the Army and for that reason at that time, in 1942, the Chief of the Medical Service of the Army was promoted to Chief of the Medical Services for the Armed Forces, which includes all branches.

Q Would you say that the medical service of the army was larger than the medical services of the other branches of the armed forces combined?

A I cannot say that with certainty but I would assume that, according to figures, that is with reference to the number of medical officers, it was larger than the Luftwaffe and Navy together.

Q And didn't the Army Medical Inspectorate handle substantially all medical problems for all branches of the Wehrmacht with the exception of those medical problems which related primarily to one of the other branches of the armed forces, for instance, aviation medicine?

A The individual branches of the armed forces worked on medical questions by themselves. Because of this independent activity, remarkable happenings occurred. For instance, in the same locality, let us assume it is the Crimea, where there were certain Navy units, the same vaccination procedure was carried out which was done at different periods by the Army, Navy and Air Force. This is merely an indication that within the individual Wehrmacht branches there was a basical independency of action and it was the desire of the independent Wehrmacht branches to maintain their special position, even with reference to their own academies. Therefore, it was not the case that the Army was in any way in a leading position regarding its measures which it took within its own branch and was in any way suggestive to the measures of the Navy and Air Force.

Q. Now, Herr Brandt, after Handloser was appointed as chief of the medical services of the Wehrmacht, on 28 July 1942, was he or was he not the superior of Hippke?

A. He was not the official superior of Hippke.

Q. Now, Herr Brandt, we are not in this trial concerned with the right of the superior to punish his subordinate or matters of that concern. I am, however, concerned and this case is concerned with whether or not Handloser could stop certain research work which was being carried on by Hippke as the Luftwaffe Medical Inspectorate?

A. According to my opinion that would only have been possible; that is, to stop them or not to stop them, if we were concerned with matters which equally concerned all branches of the armed forces. But this word, mutual, I think, was expressly mentioned in the decree so that everything which does not represent a mutual basis was outside the jurisdiction of Handloser and was within the framework of the respective Wehrmacht branch which dealt with any such matter. It may have been the Navy or the Air Force.

Q. As I put it to you, medical research on typhus, medical research on epidemic jaundice, medical research on yellow fever, are mutual problems. Could Handloser issue orders to Hippke initiating or stopping research work with respect to such matters?

A. Before giving my reply may I look at the decree once more, which is relevant in connection with this order? That is the decree of the 28th of July.

(Document handed to witness).

A. (Con'd.) On the basis of this decree and its formulation and in view of the situation which prevailed, I would not assume that Handloser was in a position to give such a directive. The entire complex of science and research was not mentioned in this decree at all, and if I take into consideration the history of the creation of this decree and taking into consideration the lack of materials, a special readiness for commitment had to be gained.

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In the heading of this decree, the first sentence is of importance, which says; "The utilization of personnel and material in the field of

medical and health matters demands a coordinated and planned direction." And this refers to paragraph 1, namely, the coordination of all tasks common to the medical services of the Wehrmacht et cetera. I am of the opinion that on the basis of this decree Dr. Handloser quite apart from the question whether he had any knowledge or not, could not have been in a position to give any orders to Hippke in his field of science.

Q. Well, this opening paragraph you have referred to talks of "The utilization of personnel and material in the field of medical and health matters demands a coordinated and planned direction"; is that right? Is medical research not a problem very directly concerned with the coordinated and planned use of personnel and material?

A. But that is not meant in this decree. I have just said that you have to take into consideration in addition, the history of the creation of this decree. Nobody, when speaking of personnel and material, will connect this with research work as such.

Q. Is that right? Well, let's look at Document NO-924 ---

A. I would like to ask you once more, did you ask me whether that is correct or not? I said that personnel and material questions have nothing to do with research.

Q. That's exactly what I understood you to say. Now let me put to you Document NO-022 which was introduced as Prosecution Exhibit 435, and read you the words of Generaloberstabsarzt Handloser himself, and these words were spoken at the meeting of the consulting physicians of the Military Medical Academy from 30 November to 3 December 1942, approximately six months after this Fuehrer order that we have been studying was issued. He opens his address:

"Gentlemen: The demands and extent of this total war as well as the relationship between needs and availability of personnel and material require measures also in military and medical fields which will serve the unification and unified leadership. It is not a question of marching separately and battling together, but marching and battling must be done in unison from the beginning in all fields. As a result, as

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concerns the military sector, the Wehrmacht Medical Service and with
it the Chief of the Medical Services of the

Wehrmacht, came into being. Not only in matters of personnel and material, even as far as this is possible in view of special fields and special tasks which must be considered, but also with the view to medical scientific education and research, our part in the Wehrmacht Medical Service must and will be an unified one. Accordingly the group of participants in this second work conference East which I have now opened is differently composed from the first work conference in May of this year. Then it was a conference of the Army. Today the three branches of the Wehrmacht, the Waffen SS and police and labor service and the organization Todt are participating and unified."

Do you wish to change your testimony, witness?

A. No, I do not want to change my testimony. If this has happened in this case and if these questions went parallel to scientific questions too, it was not something that was based on an order which was initiated by Prof. Dr. Handloser, but it was the realization of the participating Wehrmacht branches to try on their own accord to coordinate their functions. That wasn't the case everywhere, and even on the occasion of such meetings of the East and I don't know who was detailed to attend these meetings, there was some copying done with reference to the various Wehrmacht branches.

Q. Well now, Herr Brandt, I think that is actually what the situation was. Weren't the various branches of the Wehrmacht being coordinated by Handloser and weren't they being coordinated in the field of medical research as well?

A. The academies were not carried on as Wehrmacht academies, but there was the academy of the Air Force, the academy of the Army and the academy of the Navy. Even the Waffen SS had later started to institute their own SS academy. That may have been earlier too. At any rate the academies are not sub-organs of the chief of the armed forces medical services but they remained institutions of the competent Wehrmacht branches and had their names. Dr. Handloser, as medical inspector

and Army physician, had the Military Medical Academy and similar situation was with the Navy.

Q. And he used the Military Medical Academy to coordinate research activities in all the branches of the Wehrmacht, did he not?

A We were then concerned with the meeting of the consulting physicians to which you probably point. These meetings of the consulting physicians were for the purpose of exchanging of experiences, but according to a channel of command Handloser certainly could not interfere with any of the other research branches. In such a case the respective chiefs of the Navy or Air Force would have referred to this decree which only speaks of personnel and material direction.

Q Herr Brandt, before we adjourn for the evening I would like to put some of your own words to you in connection with the position of the defendant Handloser, and I want you to recall to mind the words that you spoke at the meeting of the Military Medical Academy at Hohenlirchen in May of 1944 which I need not remind you, was before the decree of August 1944 which you assert extended Handloser's powers somewhat. This is Document NO-924, Prosecution Exhibit 437. You said the following:

"Generaloberstabsarzt Handloser, you, a soldier and a physician at the same time, are responsible for the use and the performance of our medical officers." You went on to say, "I believe, and this probably is the sole expectation of all concerned, that this meeting which today starts in Hohen- lichen will be held for the benefit of our soldiers. The achievements to date of your physicians, Herr General Oberstabsarzt, confirm this unequivocally and their readiness to do their share makes all of us proud, and I may also say confident."

Then you said a little later on: "It is good simply to call these things by their names and to look at them as they are. This meeting is the visible expression of it is, it shall be, and it must be so in every respect. The consulting physicians are gathered around their medical chief. When I look at these ranks you, Generaloberstabsarzt Handloser, are to be envied. Medical experts with the best and most highly trained special knowledge are at your disposal for care of the soldiers. In reciprocal action between yourself and your medical officers the problems of our medical knowledge and capacity are kept alive."

Herr Brandt, were those words addressed to a man with no power and authority over those medical experts gathered from all branches of the Wehrmacht, including the Waffen SS?

A From what I have said can be seen that again medical officers are spoken of. That is in compliance with what is meant here in the formulation of the decree with personnel. It does not mean that Mr. Handloser was in the position to direct the work done by these gentlemen in their various branches. No doubt it would have been correct if we had some central medical service, but that did not exist and that can also be seen from the fact that scientific work within the academies was carried on under the designation of the own special arm and that it was not something of the chief of the medical services of the armed forces. Otherwise the medical offices would have to be exchanged; that at the academy for Air Force, Army physicians would have to be - but that was not the case. They were clearly separated. I think it was only twice a year when they reported on their activities.

Generaloberstabsarzt Handloser at that time was the chief of the medical services of the armed forces and was according to this name the exponent. He was just the representative, but he was not a representative according to the function.

MR. McHANEY: I guess the Tribunal wishes to adjourn now and I would like to state again that, of course, since the witness is now under cross examination he shall not be in contact with his defense counsel.

THE PRESIDENT: The rule announced at adjournment yesterday will be carried out again this evening. The witness will be secluded.

The Tribunal will recess until 0930 o'clock tomorrow morning.

(The Tribunal adjourned until 6 February 1947, at 0930 hours).

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OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

CASE No. 1 TRIBUNAL I

U.S. vs KARL BRANDT et al

VOLUME 8

TRANSCRIPTS

(English)

6-11 February 1947 pp. 2554-2869

CORRECTED COPY

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 6 February 1947, 0930, Justice Benls, presiding.

THE MARSHAL: Persons in the Court room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in court.

THE MARSHAL: May it please your Honors, all defendants are present in the Court Room.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in court.

Counsel may proceed with cross-examination.

KARL BRANDT -- Resumed.

CROSS EXAMINATION (Continued.)

BY MR. McHANEY:

Q.- Herr Brandt, at the end of the session yesterday we were investigating the power and authority of General Handloser and I had put to you certain words which you had spoken in May 1944 at Hohenlychen. I want to ask you on which occasion you were right, whether when you stated in May 1944 that Handloser was responsible for the use and performance of the medical office, or whether, as you testified here, he was not so responsible?

A.- You must not consider the question of responsibility in the same sense, you must differentiate between the responsibility of the entire commitment of the medical officer within the army and within the troops,

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in reference to reserves, etc., and the things which are connected with research as we spoke about yesterday. In addition, it has to be added that when I spoke in Hohenlychem in the year 1944 I was speaking about a formal use, and it certainly wasn't some kind of an affidavit that I was making at the time. During such a meeting, where medical officers of the various armed forces

branches have gathered, it is quite customary that the chief of one such Wehrmacht branch is mentioned. It is a gesture, an appreciative gesture, rather than a fixing of his functions in various capacities.

Q Herr Brandt, let me put a hypothetical case to you. Suppose Handloser in August of 1942 made an inspection of the medical service of the Luftwaffe, if he at that time was under Hippike, and suppose Handloser found conditions which were not to his liking, could Handloser issue an order to Hippike instructing him to correct the conditions of which Handloser did not approve?

A He probably wouldn't have been in a position to give directives of that manner to Hippike since Hippike received his directives from the Chief of the Air Forces himself and was subordinated to him in a military way. Here we would be concerned with a purely military order. He probably could have pointed out that something was wrong, but according to my opinion he would not have been in a position to give any orders to a different branch of the Wehrmacht as far as it was not concerned with material or personnel matters. Even in the case of material and personnel matters it would have been necessary even before such an inspection took place to inform the Chief of the respective Wehrmacht branch about his measures.

Q I take it that you excluded medical research from what you describe as the field of material and personnel?

A I already made that difference yesterday, in that decree the word research is not mentioned at all.

Q Let me put another hypothetical case to you. Handloser made the same inspection of the medical service of the Luftwaffe under Hippike and found conditions of which he did not approve. Handloser then went to Keitel and told Keitel that intolerable conditions prevailed in the medical service of the Luftwaffe. Would Keitel or would Keitel have not, sent an order down to Hippike to straighten out the affairs which were complained of by Handloser?

A I don't believe that Keitel would have done so, and for the following reason, the medical service of the Air Forces was an independent institution and the supreme commander of the Air Forces has a direct channel to the Fuehrer. I have already pointed out that the position of Keitel was more or less a mock position since Keitel was circumvented by the various chiefs of the Wehrmacht

branches and, therefore, it would not have been possible for Keitel to give Goering any such directives in any such event. I think that it is out of the question. Keitel may have mentioned this matter to the Fuehrer so that he, over Goering, could give orders to Hippke and deal with the matter, but I don't believe that Keitel on his own initiative could have given any directives Hippke.

Q Wasn't it precisely the duty and the responsibility of Handloser to make such inspection trips? I think you yourself stated that you went on such inspection trips with him. Now, having made such an inspection trip just exactly what did Handloser do concerning the conditions which he found? If I understand your testimony you are telling this Tribunal he could do nothing, is that right?

A If he undertook such a tour of inspection to the Crimea, for instance, or Poland, he informed the respective medical officers that he was on his way and it is quite probable that afterwards he made an according report to the medical officers. But here we are concerned with the questions as laid down in the decree, where it expressly said that it deals with the personnel and material commitment.

Q Herr Brandt, let's assume that the matter of which Handloser disapproves falls within the scope of the decree -- I am trying to find out precisely what Handloser's powers and responsibilities were in such a case and exactly what orders he could issue, exactly what man he could go to to have such orders issued, and you have excluded the possibility of Keitel. You have excluded the possibility of Handloser himself issuing such orders and I am left with the picture that Dr. Handloser had no powers whatsoever.

A The fact that the power that he had at the time was not sufficient is confirmed by the fact that in the year 1944 a second decree was necessary where he received more extensive functions. If in 1942 on the strength of this decree he actually had become the medical chief of the entire Armed Forces, that is to say if he would have taken over the entire leadership and assumed a clear position of superiority over all Armed Forces branches, this second decree of August 1944 would not have become necessary. In this second decree there wasn't only the separation of his position as the Army Inspectorate and the Medical Chief of

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the Armed Forces, but it was very clearly established there that he received certain functions. The functions which he received there certainly were not given to him before because otherwise this second directive would have become superfluous.

Q. Under the second directive could Handloser issue orders directly to the Chief of the Medical Service of the Army, of the Luftwaffe, and of the Navy?

A. May I ask you to give me this second decree together with the official directive?

Q. Herr Brandt, I would like for you to testify from your own knowledge of the medical service in Germany. After all, I think, you were in a position to know. The Tribunal has the decree of August 1944. And, if it is simply a question of interpreting the written words, I think perhaps we are competent to do that. I would like to ask you now to testify from your own knowledge. I asked you if Handloser could issue orders after the decree of August 1944 to the Chief of the Medical Service of the Army, Luftwaffe, Navy, and Waffen SS, as attached to the Wehrmacht?

A. According to my opinion, he could only do so within the framework of his entire tasks; that is, within the framework of his mutual tasks. I do not believe that it is clearly stated in the decree that he could have done so in such tasks that were not mutual. But, I still should like to see the decree once more together with the official directive. In any case, this second decree of 1944 compared to the decree of 1942, gave Handloser very clear powers and authority which previously were not existent.

Q. Is medical research a mutual task?

A. Apart from the special field, yes; and, I should like to designate aviation medicine as a special field.

Q. Well, could not Handloser issue a general order that there would be no medical experimentation on concentration camp inmates?

A. The prerequisite would have been that he had the knowledge that such experiments were being carried out to a certain extent or at all. If he did not know that it is very improbable that he would have issued such a decree. I do not believe that he would have had the influence to bring such a decree to its final effect, since he then would interfere in a field which was not medical and which was subordinated to Himmler. The only channel would have been to report to the Fuehrer, and have him deal with the matter. I am

quite sure he could not have issued any order to Himmler.

Q Herr Brandt, you did not answer the question. We are not concerned with the likelihood a Handloser having issued an order. We are simply concerned with the power to do so. And, I have put the question to you: When in September 1944 Handloser, as Chief of the Medical Service of the Wehrmacht, could have issued an order to the Chief of the Medical Service of the Army, Navy, Airforce, and the Waffen-SS, as attached to the Wehrmacht, that no medical experimentation would be carried out by officers of these services upon concentration camp inmates?

A If such an order had been issued, the success or non-success and, an order would have occurred whether or not it was in contrast to an order which any chief of the Wehrmacht received from his own superior. That is to say, if a directive had been given by Goering that such and such experiments were to be carried out, and if the order of Handloser was in contrast to this order, the order of Handloser's certainly would have no effect. It would have been merely illusory.

Q Herr Brandt, I insist that you answer the question with a yes or a no. We are not concerned with any conflict between an order of Handloser's or an order of Goering's or an order Himmler's. We are simply concerned with the powers and the right of Handloser to have issued such an order to the Chief of the Medical Service of the Army, Navy, Luftwaffe, and the Waffen-SS, as attached to the Wehrmacht. I think you can answer that question with a yes or a no. Did he have such powers or did he not?

A Without seeing the decree once more, I cannot answer this question with either a yes or a no.

Q Allright, Herr Brandt, we will pass on. You do not care to answer that question without seeing the decree; is that right?

A I cannot answer the question in its precise form with yes or no, without having once more the opportunity of seeing the decree together with the official directive.

Q You mentioned the name Blome in connection with a position he held in the Interior.

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A.- In connection with the fact that he had no position in the Ministry of the Interior.

Q.- I understood you to describe Blome as having two positions: one with the Party and one with the State?

A.- That is an error. I do not think that I have stated that. Doctor Conti had a double position, but Blome was merely the representative of Conti in his capacity as Leader of physicians. He was the deputy leader of physicians while Conti was the leader of physicians. And, he was Reich Health Leader, as a party function and at the same time he was Under Secretary of State in the Ministry of the Interior. Blome had nothing at all to do with Doctor Conti's position as Under Secretary of State in the Ministry of the Interior.

Q.- And, you testified that the only job that Blome had was that as Deputy Reich Health Leader.

A.- In his relationship to Doctor Conti, he was only his Deputy Physician Leader.

Q.- Herr Brandt, I did not ask you what his job was in relationship to Conti. I asked you what jobs he held. Now, will you please answer?

A.- Doctor Blome was the Deputy Leader of Physicians, and I think he had in addition a function in the Party with the main office for Public Health. He was active within the Reich Research Council as plenipotentiary for cancer research. And, I do not know how far his official position in the Party had something to do with the educational matter or whether he had some official name for it, I cannot say, but I did not hear about any other functions of Blome.

Q.- Herr Brandt, your attorney asked you, during the course of the direct examination, for your judgment on the importance of the experiments with which this case is concerned. Do you remember that?

A.- Yes.

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Q.- I recall that you testified, in effect, that all of the experiments charged in the Indictment were important experiments with the exception of sterilization?

A When answering the question about the importance of experiments, I answered in the affirmative, but with that; I did not want to express that at the same time the manner of execution, and the experiments in this form, were important. I can only speak about that if I had heard them speak who participated in these experiments. The fact that such questions of sulfanilamide played an important part with us, and that its clarification was important, and that the effect that high altitude experiments could be of importance because of special demands of the Air-force. It was in this sense that I wanted to establish the importance of the experiments and I, in that connection, pointed to the skeleton collection and sterilization, and these are two groups which have to be excluded from consideration.

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Q. Before continuing with this line of questioning, Herr Brandt, I would like to clear up your relationship to the army. Is it true that you held a rank in the army?

A. Yes.

Q. What was your relationship to the army and what rank did you hold?

A. The last time I was Generalarzt of the Reserve.

Q. Did you have any function from the army?

A. I had no further connection with the army. After participating in the first exercises in the year of 1935 I continued the exercises up until the beginning of the war; and during the war I was commissioned to exercise functions at the Fuehrer's headquarters.

Q. Herr Brandt, do you regard as criminal experimentation on human beings without their consent?

A. That depends upon what experiments you are speaking about. The question of approval according to my opinion plays an essential role in the entire judgment of the experiments, that is, in judging if you want to use the word criminal.

Q. Well, Herr Brandt, why do you draw a distinction between the type of experiments? What difference does it make what type of experiment it is if the experimental subject has not consented to undergo the experiment?

A. You can speak about experiments when you start using a new drug. One is then of the opinion that it is of use without knowing it in its final details. Even such a thing can be considered as an experiment; and that is why I wanted to differentiate between the problem; and in addition the question of voluntary or involuntary nature with reference to an inmate plays a psychological part, and if one considered inmates therefore one would have to be clear in answering such a question from the start as criminal what experiment one is concerned with. The difficult points regarding two crimes are seen in three points. One is involuntary nature, then mainly the lack of necessity of such an experiment; and, third, the dangerousness of an experiment.

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Q. In other words, you find situations where it is possible, although the experimental subject does not volunteer, that none the less the experiment is permissible, both by way of law and morals? Is that right?

A. Both can be possible, yes.

Q. You are a doctor. I should think that you are probably rather familiar with malpractice cases and statutes in Germany. Suppose, Herr Brandt, you tried out a new drug on one of your patients in pre-war Germany without telling the subject about it or asking his consent in any way, and as a result the person were injured by this drug. Would you or would you not be subject to a charge of malpractice?

A. I certainly would be subject to such a charge.

Q. Well, then I don't quite understand the situations in which you say it is permissible to do something to a person without his consent.

A. For that reason I made the differentiation before, and I said that we are at the same time concerned with the question of dangerousness; and what you just said possesses dangerousness in addition to being of an involuntary nature. This makes it doubly hard; and of course if it is not essential, then that would be the crux of the problem.

Q. Herr Brandt, would the experiments charged in the indictment be criminal if the experimental subjects did not consent to undergoing these experiments? Will you answer the question?

DR. SERVATIUS: Mr. President, we are here concerned with the legal question which cannot be put to the witness.

THE PRESIDENT: I would ask counsel if by his question he intends to ask the witness whether the experiments -- I don't know to which experiments counsel refers -- would be objectionable or illegal if carried on by a physician upon persons in civil life disconnected with the military service.

MR. McHANEY: That is correct, your Honor. I am simply trying to search the moral values which the witness places upon an experimental situation of this type.

JUDGE SEBRING: Now then, Mr. McHaney, in posing your question, are you

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attempting to elicit from this witness his views as to whether each of these experiments is illegal or criminal pressure or are you concerned primarily with whether, assuming the prosecution theory of the case to be true, these experiments were illegal or criminal because of the manner in which they were executed?

MR. McHANEY: Well, I think it is the latter, your Honor.

JUDGE SEHRING: I think perhaps that is not too clear.

MR. McHANEY: I am trying to determine the importance which the witness attaches to consent by the experimental subject in the context of the experiments here charged.

JUDGE SEHRING: It would seem to me that there might be a certain type of so-called medical experiment which in and of itself might not be anticipated to produce painful or dire consequences. On the other hand I apprehend that any type of experiment, if continued to excess, might be a criminal experiment; and I would suggest, if I may, that if that differentiation is made to the witness, perhaps we can get at what we are trying to here more quickly.

MR. McHANEY: If the Tribunal please, I think I will proceed to putting questions to him with respect to each experiment in the indictment rather than in the general manner I have stated it.

Q.- Herr Brandt, you have heard the testimony and evidence in this case with respect to the freezing experiments carried on at the Dachau concentration camp. I will ask you to assume that the proof as adduced by the prosecution, for purposes of this question only, is correct and true; and you will recall that there was substantial testimony and proof that the experimental subjects in that experiment did not consent to undergo the experiments. Will you tell the Tribunal your view on the criminal character of that experiment on that assumption?

JUDGE SEHRING: Mr. McHaney are you concerned now with the experiment or the manner of its execution?

Mr. McHaney: The experiment as it was carried out.

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JUDGE SEBRING: As it was supposed to have been executed in accordance with the prosecution proof?

MR. McHANEY: That is right.

Q. Assuming the experiments were carried out in the manner that the prosecution's proof has tended to show, in your opinion was that a criminal experiment?

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A. In this form I cannot answer that question. The complexity of criminality is being presented to me and I am asked to judicially evaluate this concept. Basically I can only speak about freezing experiments and the necessity for freezing experiments and I can only say something about that is all the prerequisites which led to the experiment are clear. Therefore, I can only say something about the ethical point of view and this ethical point of view is influenced by the manner of the tasks which have led to such an experiment. The most decisive thing in the assignment of an experiment is the following question: Is the experiment important or is it not important? If you refer that question to the freezing experiments, then the importance of such experiments can play a part under the circumstances of the war. The then circumstances of war can add the interest of the state to the interest of medicine and then lead to the conclusion that such freezing experiments have to be carried out. Then, from a certain point on, we are concerned with the manner of execution. The execution of such experiments must again be subdivided into voluntary nature or involuntary nature. If, in addition - I spoke about the dangerousness and harmfulness of the experiment - then the experiment, if it is harmful, can't possibly be carried out by physicians when considering all human considerations. If any danger comes up, then the physician has to assume the responsibility for the danger in connection with that experiment. Any state order can be a safeguard, and a state order can be interpreted in various ways during a war. But I can not define my position with reference to the freezing experiments and I cannot establish whether such an experiment, from a juristical point of view, was criminal or not criminal.

Q. Do you think the freezing experiments were dangerous?

A. Since fatalities occurred, they were no doubt dangerous experiments.

JUDGE SEBRING: Mr. McHaney, I would like to address a question to the witness.

Witness, for the sake of clarification, let us assume that it would

have been highly important to the Wehrmacht to ascertain, as a matter of fact, how long a human being could withstand exposure to cold before succumbing to the affects of it. Do you understand that? Let's assume secondly that human subjects were selected for such freezing experiments without their consent. Let's assume thirdly that such involuntary human subjects were subjected to the experiments and died as a direct or indirect result thereof. Now, would you be good enough to inform the Tribunal what your view of such an experiment is - either from the legal or from the ethical point of view?

THE WITNESS: I must repeat once more, in order to make sure that I understood you correctly. When assigning the experiment the following things are assumed: highest military necessity, involuntary nature of the experiment, and the dangerousness of the experiment with the eventual fatality. In this case I am of the opinion that, when considering the circumstances of the situation of the war, this state institution which has laid down the importance in the interest of the state at the same time takes the responsibility away from the physician if such an experiment ends fatally and such a responsibility has to be taken by the state.

JUDGE SEBRING: Now, does it take away that responsibility from the physician, in your view, or does it share that responsibility jointly with the physician, in your view?

THE WITNESS: According to my opinion, this responsibility is taken away from the physician because, from that moment on, the physician is merely an instrument maybe in the same sense as it would be in the case of an officer who receives an order at the front and leads a group of three or four soldiers into a position where they have to meet death. That relation, if I apply it to German conditions during the war, is in principle the same. I don't believe that the physician as such, from his ethical and moral feelings, would carry out such an experiment without this assurance of the authoritarian state which gives him a formal and

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legal assurance on one side and, on the other side, gives him the order for the execution. Naturally, in this case, it is a theoretical question since I cannot survey the position in the case of the freezing experiment. I don't know how this assurance was given and how the order was given. Basically, I want to differentiate between the order for an experiment which arises from medical needs as such and where, under the circumstances, the state only has a secondary interest on the basis of medical initiatives, and I would differentiate between the reverse state of affairs where the state uses medical activities.

JUDGE SEBRING: The Tribunal has one further question of interest.

In your view, would an order which authorized or directed a subordinate medical officer or subordinate medical group to carry on a certain medical experiment - let us assume for the moment this freezing experiment - we have then a general order, let us assume, directing a certain institute to carry on freezing experiments without delineating or specifying in detail the exact course of these experiments. Would you conceive that such an order would authorize the medical officer to whom the order was addressed to select subjects involuntarily and subject them to experiments, the execution of which that officer absolutely knew or should have known would likely result in death to the subject?

THE WITNESS: May I have your last sentence repeated, please? This question is extremely difficult to answer. The order has to be taken into consideration which is given in such a case. May I, perhaps, answer with an example of such an order. If Himmler gives an order to a Dr. "X" and tells him to carry out a certain experiment, then it would have been possible that such a Dr. "X" did not wish to adhere to this order. In such a case, however, this Dr. "X" will not have overlooked the importance of the experiment itself, the same way as the Lieutenant who received a certain military order -- and we are here concerned with a military order -- does not overlook that he would have to hold out with a group of eight men at a bridgehead and which would end in his death. In spite of that, this officer with his eight men to whom he passed this order on would meet his death at that position. So this physician "X" who received this order from Himmler would under the circumstances have to carry out an experiment without overlooking the importance of the experiment which prompted a central agency.

If a physician had not carried out that experiment, he would have come into a position where he would be taken into account if he had not carried out that experiment. In this case, and there we have to consider the authoritarian nature of our State, the personal feeling and the feeling of a special professional, ethical obligation has to step behind the totalitarian nature of the war.

I must say once more these are theoretical assumptions which I am expressing here. At the same time I want to express how difficult such decisions are if I would point to an example which recently was quoted here, and I mean the eight hundred inmates in a prison in America who were infected with malaria. I don't want to point to this example in order to justify the experiments which are under indictment here, but I want to express that the question of the importance of an experiment is basically and remains basically of a decisive importance. Even in that case a certain amount of fatalities had to be taken into account from the start when infecting eight hundred people with malaria.

The voluntary nature which an inmate adopts and with which an inmate

puts himself at this disposal is a relatively voluntary nature. I don't think it is the same if one would receive such voluntary natures from people who are present here. One has to consider the manner of the voluntary nature. In my opinion, this round figure of eight hundred speaks against the entire voluntary nature. I would assume that if it was seven hundred thirty-five or seven hundred forty, it would be different, but the round figure of eight hundred seems to lead to the result that there was a certain order for the experiment before the beginning of the experiment, and those experiments, too, were directed from the point of view of a superior State interest, and this superior State interest, at the same time, takes over the responsibility for the result of the experiment with reference to the experimental subject, for responsibility in a medical sense cannot be assumed at all since even a negative series of experiments speaks against the urgency and necessity of these experiments; and particularly when answering the question about voluntary or involuntary, dangerous or non-dangerous natures, it is very difficult and almost not possible to say basically with reference to experiments that experiments on human beings, taking all these things into consideration is a crime or is not a crime. The question can only be judged when over and above the expected result experiments are still continued. If a result was already established and then further experiments on human beings are carried out, they are not important, and with reference to the experiment which is not important which is only a dilettantical experiment, in that case I would from the start assume the word "criminal", but when dealing with important experiments, it must be necessary to take into consideration the entire circumstances which played a part at that time; that is to say, the important experiments from the moment a result is achieved becomes not important. From that moment on, according to my opinion, the experiment is criminal. Therefore, it will be necessary that when speaking about human experiments at all, one should put these results at the disposal of the State so -- not only to one State but internationally -- so that experiments which are carried out in Russia and proved, results would not be continued in other countries.

With reference to freezing experiments, I can only say in this connection that in a certain form without saying "criminal" or "not criminal" they showed their value. The indication for that is that the results in the American Air Force were considered as something particular and helped the American Air Force to gain years, and I think that these experiments would also be of use within mining works where a number of fatalities occur because of freezing. If you consider the freezing experiments in that light the victims in effect are tragic, and it is to be regretted, but with reference to subsequent periods this victim is a real sacrifice for words or maybe thousands of people would keep their lives and prolong their lives because of it.

JUDGE SEBRING: Witness, this question of the necessity for an experiment, is it your view that it is for the State to determine the extreme necessity for such an experiment and thereafter those who serve the State are to be bound by that procedure? I think you can answer that "yes" or "no".

THE WITNESS: This trial shows that it will be the task of the State under all circumstances to basically clarify this question in the future.

JUDGE SEBRING: Witness, as I understood your statements a moment ago, Dr. Brandt, they were that the physician having once become the soldier thereafter must subordinate such medical-ethical views as he may have that may arise in conflict with a military order from higher authority, is that true?

THE WITNESS: I didn't want to express it in that form. I did not mean to say that the physician the moment he becomes medical officer should change his basic attitude as a physician. Such an order in the very same way can go to a physician who is not a soldier. I meant it referring to the entire situation as it prevailed with us in Germany during the time of an authoritarian leadership. This authoritarian leadership interfered with the personality and the personal feelings of the human being. At the moment as a personality is dissolved in the concept of a collective body, every

demand which is put to that personality has to be dissolved in the concept of a collective system. Therefore, the demands of society are put above -- every individual human being as an entire complex, and this individual complex, the human being, is completely used in the interest of that society.

The difficult thing* and something which is hard to understand basically is that during our entire period, and Dr. Leibbrand referred to that, that at that moment everything was done in the interest of humanity and so that the individual person had no meaning whatsoever, and the farther the war progressed, the stronger did this principle thought appear that was designated at the end as total war fare, and in accordance with that the leadership of the State quite generally ordered and demanded that orders be carried out. It is a very tragic for a number of persons not only within the framework of these experiments but also in other situations that they had to work under such orders. Without considering the entire situation as it prevailed in Germany, one cannot understand the question of these particular experiments at all.

JUDGE SEERING: Dr. Brandt, is it not true that in any military organization, even one of an authoritarian State, there comes a point beyond which the officer receiving an order subjects himself to individual responsibility, at least in the eyes of civilized society, for carrying out any military orders, particularly if the order is unlawful or transcends the limit of extreme military necessity?

A.- There was a general law stating that an officer does not have to carry out an order which he realized is a crime, but the question with reference to these various experiments is whether the order concerned can realize what he is doing is a crime. If he can realize it the, according to my opinion, he cannot follow the order.

MR. McHANEY: You have stated that where we are concerned with an experiment which is extremely important for the State, then the Doctor who is directed to carry out such an experiment is extrical and is not responsible for any death which may occur. Is the person who issued the order responsible in your opinion?

A.- Are you referring to the freezing experiments and would you tell me who gave the order?

Q.- No, we are going back to the hypothetical question put to you by the Tribunal which stated that an officer ordering a subordinate to carry out an experiment, which we will assume was of State importance, that that subordinate carrying out that experiment upon involuntary subjects, some of whom died, as I recall you stated upon these assumptions the doctor who carried out the experiment which was of State importance was relieved of the responsibility because of the totalitarian State. Is that correct?

A.- I said generally that in such a case the state as such must take away that responsibility beforehand, that is, from the physician.

Q.- Now, I would like for you to tell me whether anyone in the State anyone such as the one who issued the order, must assume the

responsibility for that experiment?

A.- There is the question whether he can assume it. When considering these series of experiments it must be dependant on who was justified to decide about the life the experimental subject. If I consider the case of concentration camps, then, according to my opinion, the person who is alone responsible was Himmler himself for it was only with his consent, or only on the basis of his order such experiments were carried through. These people attached to the concentration camps had been handed over to him and, therefore, he bore the responsibility for these for these people for their living or not living. If Himmler has given such an order, or if he ordered the execution of such an experiment, then, according to my opinion, the responsibility was with him, a responsibility which he had to assume in his position as the supreme deciding man in these affairs.

Q.- Suppose you have a case where the experiment is ordered by the Chief of the Medical Services of the Luftwaffe. The experiment is carried out by the Luftwaffe doctors, and all that Himmler does is to make the experimental subjects available to the Luftwaffe. Does Himmler bear the sole responsibility there or does the Chief of the Medical Services of the Luftwaffe also share the responsibility?

A.- According to my opinion the responsibility in that respect rested with Himmler alone and not with the Chief of the Medical Services of the Air Force because without Himmler's consent and furnishing of experimental subjects that made it possible to carry out such experiments. The Chief of the Medical Services of the Luftwaffe couldn't have carried them out. There is perhaps a very clear proof for the fact that the responsibility rested with Himmler for these experiments were carried out, so to speak, in his house within the framework of the concentration camp. I don't believe in this case the responsibility can be attached to

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the Chief of the Medical Services of the Luftwaffe. The Chief of the Medical Services of the Luftwaffe could put forth the problem and the urgency but in that manner he would have remained at a vacuum if the person of Himmler, together with his personnel and human beings at his disposal, would not have helped him putting at his disposal his space in his camps.

THE MARSHAL: The Tribunal is again in session.

DR. SAUTER (Counsel for the Defendant Dr. Ruff): Mr. President, before the Brandt case is continued I should like to present to you the following matter and ask you for your decision and for your assistance. On the 13th of December I applied for a witness, Dr. Erich Hippke, that is, the former Chief of the Medical Inspectorate of the Luftwaffe. This witness was approved by the Court. His whereabouts were unknown. I endeavored to find out the address of the witness. At the beginning of the trial he was at liberty and shortly after the beginning of the trial he had been put in a British prison in Hamburg. In response to my application he was brought to Nurnberg and I was informed that the witness had arrived here. This witness had also been approved for the defense counsel of General Field Marshal Milch and had been brought to Nurnberg for him, too. In the last few days I have repeatedly talked to the witness, Dr. Hippke, in order to determine whether I am to submit an affidavit from him or call him to the witness stand for examination. Yesterday afternoon, between 3:00 and 4:00 o'clock, I was talking to the witness, Dr. Erich Hippke, in the interrogation room. The Prosecution had a Lieutenant Garrett telephone down to the interrogation room and say that I was to stop questioning the witness, Hippke, immediately, and that during the next 8 days the witness could not be questioned by any defense counsel. On the basis of this situation I ask the President to decide whether this action is correct and whether I have to accept it. According to the rules of the first Nurnberg trial and also according to the rules of the present trial, if I understand them correctly, a witness who has been requested by a defense counsel and has been approved and has been brought to Nurnberg at the application of this defense counsel -- such a witness is primarily available to this defense counsel. I do not believe that under the rules of American trial procedure the prosecution has the right to destroy this right of the defense counsel because they perhaps also want to examine the witness. If such a right is given to the prosecution in the future, then, in effect, the defense counsel would no longer have any claim to examine the witnesses he has requested and to prepare for his case. I therefore ask for a ruling of the Court on this question, which has a certain basic importance for the defense. As defense counsel, I do not want to claim anything for myself which

is not my due under American Trial Procedure in a fair trial, but, on the other hand, I cannot give up any of the rights which are granted me by law or by the court. This is especially true if I would thereby come into danger of being unable to complete my document books as a result of this delay and turn them in for translation. Mr. President, that is what I had to present to you.

THE PRESIDENT: I have not the facts of this situation entirely in mind. I remember signing an order some days since, sequestering this witness for a period of 8 days only, after which he would be open to examination by any of the defense counsel. The Tribunal will examine the record at the earliest possible moment and announce its ruling on the matter. I notice, however, that counsel for Defendant Ruff, on the 30th of January, advised the Secretary General that the witness, Hippke, was no longer required as a witness for the Defendant Ruff. The Tribunal will take this under advisement and advise counsel at the earliest possible moment of its ruling.

DR. SAUTER: Mr. President, may I add something? When talking to the witness Hippke, I had at first had the impression that it would be sufficient to submit an affidavit from this witness and I had worked out the affidavit together with the witness, Hippke. At the last moment, however, the witness, Dr. Hippke, told me that for some reasons he did not want to sign this affidavit. Therefore I shall presumably have to call the witness, Hippke, to the stand after all. I may add that the same thing is true in the case of attorney Bergold, who is defending Field Marshal Milch in the trial downstairs. The witness, Hippke, was also approved for him and he too is not allowed to talk to this witness any more and we do not understand whether that is right or not. That is why we are asking for a ruling of the Tribunal.

THE PRESIDENT: It was not my intention to indicate that counsel would be bound by this notice of January 30. He may still call the witness if he desires to do so. The Tribunal will announce its ruling on the matter shortly. Has counsel for the Prosecution anything to say in this matter?

MR. McHANEY: I think I may be able to clear up the situation to the mutual satisfaction of everyone. It is not correct that Hippke was found through any efforts of defense counsel. We have been looking for Hippke since May of 1946, and we discovered, through our own efforts, his address in Hamburg.

Upon the request of the Prosecution he was there arrested and kept in Hamburg for a short time and then brought to Nurnberg at our request. In the meantime, certain of the defense counsel applied for him as a witness and, of course, we made no objection. On the other hand, the Prosecution takes the position in this case, and will take a similar position in the case of Eugene Haagen, for example, that the Prosecution has every right to interrogate such persons before they are turned over to defense counsel. In this particular case, due to some misunderstanding on the part of the Prosecution and the Secretary General, it happened that certain of the defense counsel in this case and in the Milch case interrogated Hippke at some length before he had ever been seen by the Prosecution and, as a matter of fact, exhibited to him a substantial number of documents which form the basis of the record here; and, as Hippke himself has put it, he is now so confused that he doesn't know what he can testify to from memory and from what he has seen in these documents. Consequently, the Prosecution asked the Tribunal here to rule that the Prosecution have one week in which we had the exclusive right to interrogate Hippke. At the conclusion of that time he shall, of course, be available to defense counsel for Ruff and any other of the defense counsel and I think there will be no delay in proceeding with this case.

Dr. Bergold in the Milch case has requested that Hippke appear as a witness tomorrow in that Court and he has also requested the right to interrogate Hippke this afternoon. I have conferred with the prosecutor in the Milch case, and have agreed, on the part of the prosecution in this case, that that is permissible, but the remainder of this week we would like to have Hippke available to the prosecution for interrogation and on next Monday he will be available to defense counsel at any time they want him.

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DR. SAUTER: Just a minute, please, Mr. President, I do not believe that I can be satisfied with this explanation. It is my opinion that this case would be suitable for reaching a basic decision of a basic question. The following is the issue. As I understand American trial procedure, the defense is to be put on an equal basis with the prosecution insofar as it is at all possible. Now the situation is as follows: I apply for a witness; Dr. Bergold also applies for him. The witness is unknown; we send one of our associates to Hamburg and this man finds out the address of the witness, then the witness is brought to Nurnberg. We would assume as a matter of course, that he comes as our witness and that consequently he is at our disposal so that we can prepare our case. We believe that in such a case the prosecution should not have the right to examine this witness without our presence and without our knowledge.

If we work from the principle that in general, as far as possible, the defense is to have the same rights as the prosecution, then in my opinion this action is not quite right. If the case were opposite; if the prosecution brought a witness here, then the defense does not have the right to say, "I will now examine the witness one week for the defense and when I am finished, then the prosecution can have him."

Of course, the American prosecution knows American trial procedure better and we defense counsel are dependent on experience in the first trial and the rulings of this tribunal, but I would be grateful to the President if this question could be cleared up. In my opinion it is necessary so that the trial can proceed quickly and without difficulty and in a fair manner. Thank you.

MR. McHANEY: I can only repeat, there is absolutely no disagreement between the prosecution and the defense about their right to their own witnesses and the prosecution certainly does not take the position that it can interrogate any of the defense witnesses in the absence of defense counsel, but it so happens there will be certain cases, such as in the

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case of Hippke and such as the case of Hogen, where the prosecution has for many months been looking for these persons and suddenly they are found and then both the prosecution and defense are interested in interrogating this person as a possible

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witness.

Those are just situations that will have to be worked out as they come up. The Prosecution can do nothing more than take the position that when we find them and bring them to Nuernberg, on our own effort, then we have the rights to interrogate them first excluding the rights of the defense to interrogate them.

Now, Heppke was not found through the efforts of the defense, his address was found by us at the Aero Medical Center in Heidelberg and we then got in touch with British authorities at Hamburg and agents of the British authorities arrested him then and he was then brought to Nuernberg. But, by some strange coincidence defense counsel also found his address and located him before that time. Why, it is no more than a coincidence and I don't think there is any fundamental disagreement as to the right of the defense counsel with respect to these witness, but we will have to have these cases come up from time to time and they will just have to be decided upon when they arise.

THE PRESIDENT: Now, Mr. McHaney, can you give some indication to the Tribunal now as to the names these witnesses that you say you have been looking for and are anxious to get as witness, who perhaps may also be used by the defense. You mentioned the name Heppke and now Hogon.

Mr. McHANEY: Hogon and Heppke are two that come to mind; there are of course many other numbers of possibilities that we listed when we first started investigating the matters at issue. We drew up a list in excess of 250 to 300 doctors whom we felt either were implicated in some manner or who at least had some knowledge of the matters at issue. We circulated that list with the American and British authorities to try to locate them. Some were found and a great number of them were not. We could make that list available to the Tribunal. On the other hand, even though a man is on our wanted list, if the defense counsel locates him first and brings him to Nuernberg as a volunteer witness, then I am willing to con-

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ceive they have exclusive right to that man even though we have been looking for him. Of course, we don't claim any exclusive right to the man even though we have been looking for him and of course we don't claim any right to arrest him at an appropriate opportunity

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if he is wanted as a war criminal. But we do insofar as being a witness and insofar as interrogations are concerned, if we shall locate the man first and bring him here even though the prosecution says he is a defense witness. On the other hand, if we are looking for him and bring him here, just because defense counsel has put in an application for the witness, we cannot take the view that we have lost our rights to him as a prosecution witness or shall we waive our rights to interrogations.

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DR. SAUTER: Mr. President, may I make the following remark, the last thing that the Prosecution just said is precisely what oppresses us. As things are done now I must feel that every time I bring a witness here or give the witness's address, that the Prosecution then says, "Stop! We have been looking for him for a long time. We will examine him first for a week", and after he has been examined by the Prosecution for a week then of course the defense can have him. That is what we are protesting against, at least that is what I am protesting against. My point of view is if this procedure is applied on a large scale, it might be better to chance the practices of legal procedure entirely and to say, no matter whether the witness is brought here by the defense or the prosecution, in any case the prosecution is to have the right first to examine the witness, and when it has no more questions to put to the witness, then the defense may question him. I may point out something else, Gentlemen, this witness, Hippko, has been here in the prison for sometime. The case of the prosecution has long been finished. The prosecution did not produce this witness, and as far as I know it and not submit an affidavit from this witness, therefore, in my opinion, the prosecution has given evidence that it is not interested in this witness for this trial. Now, as the defense has begun the cases for the defendants, in my opinion the prosecution should no longer have the right, as far as this trial is concerned, to examine this witness without the approval of the defense counsel, but at least it should not have the right to keep the witness for itself for a certain period. These are my objections. These are my objections on the basis of my knowledge of American trial procedure, and concerning which I ask for a ruling of the Court.

THE PRESIDENT: Dr. Sauter, in your opinion how vitally necessary is it that the defense counsel shall have precedence over the prosecution or vice-versa so far as priority in examination of any particular witness or interrogation of any particular witness is concerned?

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DR. SAUTER: As far as I can judge from the customs of the first trial, American law is that the side which has named a witness has priority and

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DR. SAUTER: As far as I can judge from the customs of the first trial, American law is that the side which has named a witness has priority and

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that the other side can examine this witness only with the approval and in the presence of the opponent. That was the procedure so far as I know. If the prosecution brought a witness here then the defense counsel can talk to this witness with the approval of the prosecution, and only in the presence of a member of the prosecution. Now, we are told that defense and prosecution have the same rights. If that is true, then it would have to be exactly the same in the opposite case. In my opinion it should not matter whether it was the prosecution who brought the witness to Nurnberg, or whether it was the defense which brought the witness to Nurnberg voluntarily. If he does not want to come I cannot send a jeep after him, put him in it and bring him to Nurnberg by force. The Prosecution can and must. Therefore, it makes no difference who brings the witness to Nurnberg.

We defense counsel were told the witness, Hippke, could not be found. Then we sent one of our associates to Hamburg. He found out the address of the witness, and Dr. Bergold and I told the General Secretary's Office the address. Whether the prosecution was trying to find out the address of the witness and whether they found out this address by themselves, I do not know.

THE PRESIDENT: It will accomplish as a matter of convenience in expediting the preparation for trial, if the witness is going to be brought here personally to be personally present as a witness by the Court rather than to take his affidavit, then as I understand you are merely confronted here with the procedural inconvenience, because the prosecution has interrogated him first. I suppose that is the point, because theoretically I think that the Court must assume that any witness having been placed under oath will be assumed to speak the truth under oath, no matter by whom he is first interrogated or by whom he is questioned. Is that not true, sir?

DR. SAUTER: Theoretically, that is true, but in practice the prosecution

has a different view. If that were true what you have just said then it would make no difference whatever to the prosecution who examined the witness first. If the prosecution is interested in questioning the witness first and demands that when the defense counsel questions the witness a member of the prosecution should be present, then the defense should have the same right, or one should say in the beginning that the Prosecution and defense do not have the same rights and we would have to adjust ourselves for that.

THE PRESIDENT: The Tribunal will take the matter under advisement and announce a ruling as soon as possible.

DR. SAUTER: Thank you.

Q.- Herr Brandt, if an order was issued to a medical officer instructing him in general terms to carry out a freezing experiment without stating the manner in which the experiment was to be performed, would you say that this medical officer was responsible for the manner in which this experiment was carried out?

A.- My point of view would be according to a phrase I used yesterday, that the officer would have to keep the experiment on as small a scale as possible and the possibility of a positive result should be assured; but he is responsible for the manner of execution of such experiments, since an experiment may be extended unnecessarily and may show accompanying symptoms which have no connection with the question at issue. For all these things the person carrying out the experiment would be responsible, that is to say for the manner of execution of the experiment.

Q.- Herr Brandt, is it not true that you held positions of great power and responsibility in the medical services of Germany after July 1942?

A.- With reference to the tasks which were assigned to me, yes.

Q.- Couldn't you even direct German doctors to disregard the Oath

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of Hipocrates?

A.- I think the Oath of Hipocrates is not an oath which is to be changed as a law. The Oath of Hipocrates is a formulation concerning moral

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and ethical obligations. I do not believe that anyone is ordered not to observe the moral obligations of a doctor. If I said anything about this it was that the medical and moral attitude must be the decisive thing as far as the doctor is concerned. I do not know whether that is an answer to your question. That is how I understood it.

Q.- Didn't you on at least one occasion, and I now have reference to a matter other than euthanasia, direct that doctors should not be bound by a certain provision of the oath of Hippocrates, and a certain provision of the morally accepted code of ethics for physicians?

Q.- I do not believe that I issued any instructions, the word instructions would mean something general, to observe anything but the medical point of view.

Q. To refresh your recollection, witness, I want to put Document NO-119 to you.

(Document handed to witness.)

Q. (cont'd) Witness, have you had an opportunity to look at the document?

A. I just see it now. May I read through it?

Q. Will you look at page 3 of the document? Is this not an order from Hitler giving you authority to instruct all German doctors that they are relieved from their pledge of secrecy concerning their patients and further giving you authority to direct them to report confidential information received concerning the condition of their patients?

A. These were not my patients. It was an order signed by Hitler saying the following:

"I not only relieve physicians, medical practitioners, and dentists of their pledge to secrecy towards my Commissioner-General Professor Dr. Karl Brandt, but I place upon them the binding obligation to advise him - for my own information - immediately after a final diagnosis has established a serious disease, or a disease of ill-boding character, with a personality holding a leading position or a position of responsibility in the State, the Party, the Wehrmacht, in industry, and so forth. (signed) Adolf Hitler"

Q. You passed this order down to all physicians, doctors, and dentists in Germany through the agency of Dr. Conti, didn't you?

A. I myself did not pass on the order, but as far as I recall, Martin Bormann passed on this order from Hitler and Martin Bormann probably added the necessary words so that it was proclaimed as necessary.

Q. Well, look at the second page. That's a letter from Dr. Conti to the heads of the medical chambers, dated 9 January 1943, "Subject: Fuehrer Decree on Suspension of Pledge to Secrecy in special cases. Gentlemen: I am sending to you enclosed a Fuehrer Decree which I received from Professor Dr. Brandt." Wouldn't that indicate that you passed the order down?

A. It is possible that I passed it on.

Q. And that does relieve German physicians from one of the normally accepted principles of medical practice, doesn't it?

A. In special cases.

Q. Did you ever relieve doctors from their code of ethics in any other instances?

A. I did not free them in this case either. It was a clear order from the Fuehrer.

Q. And in other cases?

A. In other cases? I don't recall any other cases. This is a quite clear order from the Fuehrer for specific reasons giving rise to this decree.

Q. Herr Brandt, didn't the decree of 28 July 1942 appointing you General Commissioner require that you be kept informed about the fundamental events in the medical service of the Wehrmacht and civilian health service?

A. Yes.

Q. Weren't medical experiments on concentration camp inmates without their consent fundamental events?

A. I was not informed about them. Consequently the offices which had to deal with them apparently did not consider them fundamental.

Q. Wasn't the very purpose of requiring you to be informed so that you could advise Hitler?

A. Since I was subordinate to him personally, the purpose was that I could inform him.

Q. Didn't this Fuehrer decree of 28 July 1942 empower you to intervene in a responsible manner?

A. Within the framework of the assignments given me it would have been possible.

Q. If Handloser had come to you on 1 August 1942 and told you the details about the typhus experiments in Buchenwald, what would you have done?

A. It is not clear to me in what form Handloser would have described these experiments to me. That comes back to the point which I mentioned once before this morning, discussing the basic attitude toward experiments, that the person who conducted the experiments, the causes and so forth,

were not discussed yet. I assume that Handloser's description of the experiments, if he had known it, would have been different from the one which has been given here.

Q. Well now, Herr Brandt, for purposes of answering this question, I want you to assume that Handloser told you all the details of these typhus experiments; that the subjects were concentration camp inmates who did not volunteer; that they tested various typhus vaccines by artificially infecting the experimental subjects, most of whom had not been previously protected by vaccine; that he further told you that each month they picked out six concentration camp inmates and infected them with typhus for the sole purpose of having typhus-infected blood available for the experiments; and that he further told you that a large number of people were dying as a result of these experiments. What would you have done after receiving that information from Handloser?

A. That is such a theoretical question in a form in which I cannot answer it. I consider it impossible.

DR. NELTE (Counsel for Handloser): Mr. President, a hypothetical question is being asked by the prosecutor. This hypothetical question, of course not intentionally, but in fact, contains accusations against a defendant who has not yet been examined and concerning whom no facts have been proved which would justify such a hypothetical assumption. The same question could be asked if the prosecutor said, "What would you do if someone, anyone, reported such and such fact to you." The mentioning of this one defendant defames his character without any possibility of his defending himself.

MR. MC HANEY: If the Tribunal please, I think the record very clearly shows that this is a hypothetical question and is put to the witness with certain assumptions made. I used the defendant Handloser because Handloser is mentioned in the decree of 28 July 1942 and according to the prosecution he was subordinated to some degree to the witness on the stand, and I wanted to try to establish what power, what authority, what influence, this witness would have brought to bear if he had knowledge of a criminal experiment. He denies such knowledge. We will attempt to prove, and I think we have already

proved, that he did have knowledge, but he denies it and I now want him to assume that knowledge is brought home to him by someone who is subordinated to him in some degree and try to get an answer from him which will give us some indication of the steps he would then have taken.

THE PRESIDENT: The use by counsel for prosecution of the name of the defendant Handloser has no effect upon the Tribunal. The Tribunal understands that this is simply a hypothetical question. The name of any particular defendant might well have been submitted but the Tribunal understands exactly what the prosecution intends by his question and the use of the name of the defendant Handloser is entirely without prejudice to him.

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BY Mr. McHANEY:

Q.- Now, witness, tell us what you would have done if you had received this information?

A.- If I had received this information, I would have reacted to it in a certain form, but this would have had nothing to do with the position which I held at that time. My position in respect to Mr. Handloser at that time was not in anyway that of subordination of Handloser to me. That is a decisive factor in this question. If I disregard my position at the time, if I assume that the year was 1941, I would first have tried to get more information and find out exactly what had happened and what the reasons were, and in some form possible to me I would probably have tried to clear up the situation if it was described to me as critical.

With regard to my position as Commissioner General and Handloser's position, my position in respect to Handloser, my position in 1942 was clear that it was a question of coordination of general needs with respect to the Civilian Health Service, and within the framework of this work, I could have taken action if it was a special task which had been assigned to me.

Q.- Would you have gone to Hitler?

A.- I would probably have gone to him after I had discovered what was going on by myself.

Q.- Do you think your influence with Hitler was such that you could have had this experiment stopped?

A.- That is also a hypothetical question which I shall however, try to answer. It would be very important what the experiments were and what the purpose of the experiments was. It would be important whether he himself had given the instructions which I might have learned only at that moment. I could have referred to various points. He would probably in the case of typhus cite casualty figures, and it was said that in such and

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such an army group there were so many deaths from this disease and that he wanted to have the information discovered about the therapy, and it would have been possible for me to have said it is inhumane. In that case, he would have given me ten or twenty photographs from his desk of the last air raids, and at the end he

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would say openly: "I don't care how I win the war; the important thing is that I do win it." I want to show that the possibility of such a theoretical attempt to prevent experiments would have been limited in its effect. As far as I am concerned, it is an open question whether in such an actual case I could have prevented an experiment or not.

Q.- Didn't you concern yourself at all with medical experimentation on human beings during the time you were General Commissioner?

A.- You may be referring to the letter of 1943 concerning hepatitis epidemica concerning which I said yesterday or day before that it is not clear to me to what extent this letter was written by Grawitz date the first of June. Up to that time I had promoted research in the field of epidemica, at first, and that to clear up the virus question I had suggested to Grawitz that experiments should be carried out. Thus I was formally brought into connection with these experiments after my time in 1942.

Q.- Well, witness, I seem to get a different picture now about this

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letter than the one I received from your direct examination. Do I understand that you now admit that you spoke to Grawitz and suggested to him that experiments be carried out on concentration camp inmates in connection with jaundice virus?

A.- No, You did not understand me correctly. I said when I began this sentence that this assumption may have originated with this letter. Two or three days ago I said that it is my opinion since I had not done any work in connection with hepatitis epidemica beforehand that there was probably confusion here, but at the moment I cannot prove it, of course. I pointed out that one year later on the same question of hepatitis epidemica Mr. Schreiber, who was in charge of epidemic control, wanted to carry out such experiments.

Q.- But, witness, you now stated that you yourself were not concerned with jaundice research and that you did not ask Grawitz to make prisoners available to Dohmen as stated in the letter.

A.- I cannot remember that I asked Grawitz to do this.

Q.- Well, were you interested in jaundice research at about that time?

A.- The question of Jaundice as such was not a specific question which affected me personally at that time. It was a question which was encountered by everyone in the East. The problem of hepatitis epidemica as a disease, as an epidemic, from the year '41-'42 on was general problem.

Q.- Did you concern yourself with experimentation on human beings in connection with any matter other than this jaundice problem?

A.- I am not aware that I occupied myself with experiments on human beings dealing with other diseases in any way.

Q.- Was it not one of the main reasons for the issuance of the second Fuehrer Decree on 5 September 1943 that Conti was refusing to subordinate himself to you?

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A.- Conti was not subordinate to me and could not subordinate himself to me after the first Fuehrer decree. The first decree had not said that he was subordinate to me or that I had any authority over him with the exception of certain tasks of coordination. The Second Decree, as I said, was issued

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primarily because of the material differences. As far as Conti played any role here personally, they were differences concerning x-ray machinery, x-ray apparatus. I gave an x-ray company the assignment to establish our supply of x-ray apparatus. Conti told this company and the head of the company not to carry out this assignment. This was the conflict with Dr. Conti in connection with the Second Decree aside from the general medical program tasks which were the most urgent things.

Q.- Didn't this Second Decree expressly state that your authority covered the field of medical science and research?

A.- As far as it is to be understood in the sense of Decree No. 2, I established an office for that reason called Office for Science and Research.

THE PRESIDENT: The Tribunal will be in recess until 1:30 o'clock.

(A recess was taken until 133 hours.)

Corrected Copy

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL: Mr. President, the defendant, Dr. Oberheuser, wishes to be excused because of her health today after 3 o'clock.

THE PRESIDENT: On request of Counsel for the defendant Oberheuser, the defendant Oberheuser may be excused from attendance in the court room after 3 o'clock this afternoon.

The Tribunal has considered the question raised this morning by Dr. Sauter for the defendant Ruff, and under the peculiar circumstances of this case, the Tribunal orders that Dr. Sauter be permitted to talk to the witness Hippke from this time on, and the order previously issued by the Tribunal is modified to that extent.

The Prosecution may proceed.

MR. McHANEY: If the Tribunal pleases, with respect to the ruling just made, is the Prosecution required to apply or obtain the clearance from any and all the Defense Counsel prior to the interrogation of Hippke on the part of the Prosecution.

THE PRESIDENT: It is not the intention of the Tribunal to include any such provision in the rule just made.

BY MR. McHANEY:

Q. Herr Brandt, I would appreciate it if, in answering the question which I will put to you, if you would make your answers brief and concise as possible in order not to prolong the interrogation to too great an extent. We were speaking of the second Fuehrer's decree of 5 September 1943. This decree empowers you with centrally coordinating and directing the problems and activities of the entire Medical and Health Service. Was it part of your functions pursuant to this decree to coordinate and direct medical research?

A. The sense of the wording in that decree was to avoid having research assignments going entirely to one or the other, and in order to insure that if three or four agencies were working on the same subject, that they be coordinated to start on a common task; that is

to say, the results of one group should be accessible to another. This fact accelerated the completion of the tasks with which we were commissioned.

Q. Well then, if I understood you correctly, it was the purpose and function of your office to coordinate all medical research work in Germany?

A. The word "all" goes a little too far perhaps. In order to do that, I would have had to have an extensively large office, a larger agency than I had.

Q. Did you receive copies of research orders at the time by the medical service of the Wehrmacht and the civilian sector?

A. I assume that certain information came from the civilian and the military sectors.

Q. Didn't that decree then give you the power to stop experimentation on human beings, if you had received knowledge of such experimentations and regarded it is improper?

A. In such a case, the question would have arisen about whose arm was longer. For instance, if the Reichmarshal, through one of his delegates, maybe within the framework of the Reich Research Counsel, and perhaps in connection with Himmler, had order tasks, such an influence on my part would probably have not been possible.

Q. I can agree and understand, Herr Brandt, that in a given situation it may be that your objections would have been overridden, but my question was whether you did not receive authority to intervene with respect to medical experimentations, to the best of your ability and power?

A. The question of human experiments was not touched upon at all when this decree originated. It was neither assumed nor rejected with that order. What we understood by this order was an order to our scientific academies. It was a completely different line of thought than these which have arisen here. That is why the question with reference to the decree is a question put retrospectively, and not a question which was considered when the decree originated.

Q. When did you appoint Rostock as chief of your Office for Scientific Research? And I ask you to distinguish between the use of the word "appoint" and the time as of which he may have become active.

A. It is not possible for me to give you the date when this appointment took place. It certainly occurred sometime before the office was opened. It may perhaps not have been declared formally; but Rostock knew that he was going to assume such an office. As to any written appointment, no such appointment was made.

Q. As I recall, you have previously testified that Rostock became active in the Office for Science and Research in February 1944. Is that correct?

A. Since we had our office in Belitz, we exercised our practical work there. It was possible that before this he wrote some letters from his clinic; but I could only refer to an office in Belitz; and that approximately took place in February of 1944.

Q. But you don't exclude the possibility that Rostock may have been active in the Office for Science and Research before that time in the Office at the university clinic or elsewhere?

A. It may perhaps be better to explain it in the following way: that if Rostock had asked anything with reference to science and research before the assumption of his duties, I would have been the chief myself, and Rostock would have written as my deputy or representing me.

Q. Didn't Rostock, as a matter of fact, perform duties for you as general commissioner before 5 September 1943?

A. I had no functions for him; and Rostock certainly did not hold the Office of a general secretary or anything like that. Maybe he asked for information on my orders, for instance some questions that he put with reference to medical question. He asked around universities with reference to various medical equipment; and he also discussed the question of consulting various professional experts. But I can't recall exactly what period of time that took place. If

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he did that, it had to be understood that I was doing it and he was merely taking some of the burden of my work.

Q. I understand, Herr Brandt, that you accept responsibility for Rostock's actions; but I now want to find out the extent of his cooperation and activity with you prior to 5 September 1943. Now can you give me any period of time prior to that date that he was active with you?

A. It is hardly possible to give you any date. Maybe he knows it himself; but I really could not fix a date.

Q. You had offices in the university clinic in Berlin, the same building in which Rostock had an office, did you not?

A. Rostock was my chief there, yes, clinical chief.

Q. What was Rostock's connection with the Reichsforschungsrat, the Reich Research Council?

A. After I became a member of the Reich Research Council, that is, after November 1942, then at a later date -- I don't know whether it was 1943 or 1944 -- the question arose that a representative had to be appointed for the Research Council. When this question arose, Rostock took over his duties as my representative as a member of the Research Council.

Q. Do you remember more exactly when that took place?

A. No, it is not possible for me to say that.

Q. Was it before or after the decree of 5 September 1943?

A. I can't say that.

Q. As chief of your Office for Science and Research, did Rostock investigate what medical assignments the Reich Research Council had made?

A. He approached certain organizations in order to find out what research assignments were given out; and I assume that he received material from the Reich Research Council for that purpose and then received current reports on the work which was done. But whether he actually turned to the Reich Research Council for special information, I cannot say at the moment. I am sure that he will be able to testify about that very clearly.

Q. Did he not investigate these research assignments and see what was being done and then decide on their essentiality?

A. I think the question was first as to the subject; he was informed about the subject. The manner of the execution of these research assignments and the extent of these assignments was certainly not reported in that form. Neither did it happen that Rostock or my department, Science and Research, were concerning ourselves with these questions alone. There were also certain departments in the ministry of Speer which started functioning in the year of 1944.

Q. Didn't you and Rostock have the power to decide on the necessity and priority of all medical research work?

A. The question of urgency of these research assignments was not directed by Rostock nor by me. The degree of urgency was dictated by certain urgency priority designations which were given by the various research groups. I don't think that I could answer that question with "yes."

Q. Didn't you and Rostock then have the power to decide on the necessity of certain research work?

A. It has to be considered in the light that one could aid institutes to carry out work.

Q. And you also saw to it if two or three independent groups were working on the same medical problem that their efforts were coordinated, did you not?

A. It could well occur. I think two questions arose. Two or three groups could work on the same field; for instance, at various places, work was done on penicillin. But that has to be separated from the fact that scientific research itself had certain organizational frames. For instance, there was the Reich Research Council; and then there was a department, Science and Research, the Ministry of the Interior with Dr. Conti. Then, of course, there was the Ministry of Education itself, which dealt with such tasks within its institute.

Q. Herr Brandt, how could you and Rostock perform this coordinating function of medical research without knowing what was being done in respect to medical research by the various groups working on a given problem?

A. This task could really not be fulfilled in this manner. In order to fulfill it completely, it would have become necessary that I hold a much larger position and a larger office than Rostock had at that time. Rostock, in addition to his other work, has managed that work. The question was that certain matters of science and research had to be aided and academies also belonged to that question. The question which you put on the basis of the wording of the decree was not in accordance with the factual events as they took place.

Q. Wouldn't Rostock, as Chief of the Office for Science and Research, go to the Reichforschungsrat and investigate what medical research was being carried on there and direct that priority be given to one medical research task as against another?

A. It would perhaps take such a proposal, but the profession medicine within the Reich Research Council was not headed by him. For that there was a special expert designated, and he in turn was subordinated to Goering personally. It is the same relationship as was discussed with reference to Generalarzt Schreiber. In this capacity as plenipotentiary of the Reich Research Council, he was also only subordinated to Goering. Therefore, it was only possible over Goering's head; that is, only with his consent to give a directive to the professional expert in the Reich Research Council. It would have been different if Rostock had made a proposal to this professional expert, and he had approved it and then started to work on it, or executed such work. This, however, still means that this professional expert was independent.

Q. Herr Brandt, Wilhelm Goering was interrogated about the Medical activity of the Reichforschungsrat from the same chair in which you are sitting, and I am sure it will come as no surprise to you that he was no more anxious to accept responsibility for what went on within the framework of that organization than you are, and as you say you were too busy with other matters, the Reich Marshal protests the same; and I am now trying to investigate to find out just who can be responsible for these medical activities at the Reichforschungsrat, and I ask you whether Rostock, to your knowledge, ever proposed or ordered anybody in the Reich Research Council to give priority to certain medical research work being sponsored by the Reich Research Council?

A. The Reich Research Council was an institution which was subordinated to Goering by special decree. Before that, it had been an institution of the Ministry of Education. On the strength of that decree, Goering became, as a president of the Reich Research Council, that man who had to assume Rostock could make any proposals as to

degrees of urgency of the work that was done in the Reich Research Council, I cannot say, and I should like to say again that he probably could talk about that. If in this case, the expert in the Council, and here we are only concerned with medicine, if he in turn recognizes that proposal of Rostock this does not mean to say that Rostock was the superior of the Reich Research Council. According to the charter of the Reich Research Council and according to the material that I know about that matter, the expert was very clearly subordinated only to the President.

Q. Your answer is then that you yourself do not know of any specific instance when Rostock proposed or ordered that a certain research should give priority by the Reich Research Council, is that correct?

A. At the moment I cannot remember that anything like that has happened. I think it possible that he proposed it. He would probably know more about it than I do. I really appointed him for the purpose of being active in the Office for Science and Research.

Q. But you assume the responsibility for his acts pursuant to the operation of the Office for Science and Research, don't you?

A. Certainly, I assume it.

Q. Now, the decree of 25 August 1944, gave you the title of Reich Commissioner, did it not?

A. Yes.

Q. And that gave you an office equivalent in rank to a Reich Minister, didn't it?

A. My position was considered as a position of a State Secretary.

Q. And since you were subordinated directly to Hitler, your office was in a position similar to that of the Reich Youth Leader, Von Schirach in the organization Todt?

A. I made no comparison before. That may be an administrative political question.

Q. Well, Wilhelm Frick has drawn a chart on which he shows your office, your holding an office similar to Von Schirach in the organization Todt?

A. I should like to say in reference to the position of my office,

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Minister Lammors could make some statements, since he at that time
played some

part in the framing of the decree in the year 1944. Frick maybe had some kind of imagination about it, but when I became Reich Commissioner Frick had not been Reich Minister of the Interior for a year and a half, so he spoke as a Reich protector for Bavaria and Moravia, so I don't know if he could overlook a situation like that.

Q Did the decree of August 1944 give you any power in addition to that which you had as a practical matter on the 5th of September 1943?

A He said that the authorities at that time were not opposed and he therefore gave me the responsibility to carry out the tasks which were assigned and the basis for the assignment was the decree of July 1942.

Q Well, precisely what additional powers did you receive in the decree of 25th August 1944?

A The decree stated that in order to carry out my task I had the right of directive to those agencies which were dealing with questions of medical services, that is State, Party and Armed Forces.

Q Conti really knew he was your subordinate after this decree, didn't he?

A Neither Conti became my subordinate on the basis of this decree or Generalstabsobersst Handloser. If it had been one it would have been the other.

Q Didn't Conti, as a matter of fact, subordinate himself to you after this decree of 25 August 1944?

A No subordination was mentioned in this decree. This decree was not a decree which created any Ministry of Health where I became its chief, but on the strength of this decree my possibilities of functioning were extended, — and the word "extended" probably wouldn't be quite right — "strengthened" would be better. I have stated that the decisive thing for the creation of this decree was the attitude of Conti, who prohibited his associates to aid me in my tasks which were assigned me by the Reich.

Q. Well, that is what I say. After this decree, Conti was no longer able to put up any objections, was he?

A. Certainly he could raise objections. We were not concerned that I became his superior in the Ministry of the Interior but we were concerned that whenever I received any assignment I could only carry it out with the aid of other institutes. The budget of my office was kept so low that it was impossible to carry out the task which I received. As I just mentioned, the work I had in my office Planning and Economy, it was necessary to extend it by aid of the Ministry of Economy, Ministry of Speer, and maybe use Industry itself. The Four Year Plan at that time no longer played a decisive role. Since, however, that was not possible, the situation was that the tasks were carried out with the help of certain parts of these agencies. But I did not become the superior of the Ministry of Speer, the Labor Ministry, and the same was true in relation to Dr. Conti. If a demand was put to me to carry out some additional medical care, for instance in the Ruhr territory, I could only do this with the support and administrative help of the Civilian Health System, Dr. Conti on one side and the agency of Generaloberstabsarzt Handloser on the other side. If one of these parties rejected such aid, the carrying out of measures which I had to carry through was made impossible. Whenever I took over such a task I was always responsible for its carrying out and I could only be that if I received aid from the two participants accordingly, but there was no relationship of superiority.

Q. This decree represented something of a triumph over Conti and Bormann, did it not?

A. The circumventing of Bormann could not come about by the signing of this decree.

Q. But he was opposed in fact to you, was he not, Herr Brandt?

A. Yes, that was so.

Q. So it would be true to say that the issuance of this Third Fuehrer Decree did constitute something of a triumph over Bormann on your part?

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A. I would be ashamed if the word "triumph" would play some part
if

it is in reference to the task which I had to carry out and which I had to take over. The material work which I had to carry out went far above any personal feeling and certainly above my feeling towards an enemy.

Q. Herr Brandt, you do protest so much that I think I may have to put a document to you. I have here in front of me the minutes of the report of party member, Dr. Gross, to the Reichsleiter, dated 6 October 1944, which says "present relationship between Dr. Conti and Professor Bormann is such that Dr. Conti at the request of Bormann and Himmler is to keep his position as Reich Commissioner for Health. In the meantime Dr. Conti has subordinated himself to Professor Brandt. Therefore, Bormann drops Dr. Conti altogether." I ask you again if this Third Fuehrer Decree doesn't represent something in the nature of a triumph on your own part over some very powerful forces that were opposing you?

A. I can only repeat what I have said before. In such a case the question of material necessity is more important than any personal feeling. I knew at the time after this decree, without referring to these events that you have just mentioned, I knew at that time I had hardly any contact with Martin Bormann. The question of a subordinate of Conti under me arose but it never came about and certainly was never intended by the decree. Otherwise some other title, some other position would have originated than Reich Commissioner. The position of Conti and Generaloberstabsarzt Handloser were exactly the same to me. There was no talk about that whatsoever.

Q. Did Hitler ever show his appreciation of your good work by gifts of money?

A. At one time I received money from the Fuehrer.

Q. When?

A. Perhaps was in the year of 1943, or perhaps 1942. But, I do think it was 1943, but it may have been 1944. But, I think it is more perhaps 1944 than in 1942.

Q. How much money were you given?

A. At that time I received money amounting to 50,000 marks. And, about 30,000 remained for myself because of certain expenditures I had at that time

Q Did you have to pay any income tax on this money?

A No. I did not have to pay income tax.

Q For what reason was the money given to you?

A My pay as escort physician I have since the year 1934 was very scarce. I received a monthly additional salary - I don't know how it was designated - of 350 marks per month. Then I received my fees from the clinic, that is, what I earned through my activities there. This sum was increased to 750 marks during the War. My personal expenditures, because of the decrease of my income which came about after the beginning of the War, were in a different relationship. At that time I got into debt and the Fuehrer knew about it. Consequently, I received this sum of money.

Q Did you say that you received 750 marks a year as General Commissioner?

A I never mentioned the amount 750 marks with Reich Commissioner. You asked me for what reason I received this sum and I said that at first as escort physician I received 350 marks and that this sum at the beginning of the War was increased to 750 marks. When I became Commissioner General this sum dropped out and I received, I think, 1200 marks, that is monthly and not yearly.

Q Now, Herr Brandt, you have already mentioned that you were a member of the Presidential Council of the Reich Research Council?

A A member of the Presidial Council of the Reich Research Council.

Q What year did you become a member, 1942?

A I became a member in the year 1942. That's right.

Q And Goering was the President of the Reich Research Council, was he not?

A Goering was president. Yes.

Q There were twenty-one members of the Presidial Council, were there not?

A I wouldn't know that. I didn't count them. I only know about it from the documents that are available here and it shows that there were twenty-one if they were all listed.

Q Conti was a member, was he not?

A Yes, Conti was a member of that Presidial Council. Yes.

Q Bormann?

A I don't know who the individual members were. There is a list available among your documents where they are all listed. I don't know who exactly compiled that list. In the Presidial Council of that Reich Research Council, that is to say, a meeting of that Council never took place and I never learned that any such meeting came about. It was in the autumn of 1942, subsequent to the decree giving the Reich Research Council to Goering, there was an introductory meeting of the Reich Research Council in its entirety where about 150 to 250 persons attended. That took place in the Ministry of Aviation. At that time no differentiation was made whether anyone was a Presidial Council member or Plenipotentiary and I cannot say who the individual members were.

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Q. Herr. Brandt, the document which you have reference to was objected to and consequently it is not in the record; so, therefore, I am having to you a few questions about the Reich Research Council and the members thereof. If you do not know, then simply say so, very shortly, and we will proceed. Was Himmler a member of the Presidial Council?

A. I do not know that.

Q. Keitel?

A. I cannot say. I could only say on the basis of the list which I saw here and which I do not know whether it is correct!

Q. Well, you remember Menzel?

A. Menzel, yes.

Q. And you remember Osenberg?

A. Osenberg, yes.

Q. So we have 6, counting Menzel and Osenberg. They are all doctors, aren't they?

A. Osenberg was certainly not a physician and Menzel was not a physician either.

Q. So only 2 doctors on the Presidial Council, as far as you know.

A. As far as I know, there were only 2 physicians there. I do not know that Osenberg or Menzel were in that Presidial Council. I was in a camp together with Osenberg and I was of the opinion that he was there on the basis of his activity in the Planning Office within the Reich Research Council, but, of course, I may be wrong.

Q. Did you know that the Defendant Sielers was deputy to Menzel in his capacity as the manager of ...

A. I did not know that at the time.

Q. You know that the operating section of the Reich Research Council was divided into scientific departments and fields of plenipotentiaries, don't you?

A. There were certain needs of expert departments and certain plenipotentiaries.

Q. And in these expert or scientific departments they were concerned with

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a great number of things other than medical research, weren't they? For example, they had a department on physics, chemistry, mathematics, metals, engineering, agriculture, forestry, and geo-physics, did they not?

A. I have seen a list here and because of that list I saw the numerous kinds of departments which existed within the entire organization of the Reich Research Council.

Q. Now you remember the name Sauerbruch, don't you? You know who he was?

A. Yes, I know that.

Q. Wasn't he head of the scientific department for medicine of the Reich Research Council?

A. He was the head of the scientific department and I think the name was "classical medicine".

Q. And in the field of plenipotentiaris you had Schreiber as plenipotentiary for epidemics. I think you have already stated that, haven't you?

A. Yes, plenipotentiary for the combatting of epidemics I think it was.

Q. And Blome for cancer?

A. Yes.

Q. And did you know a man named Jotten?

A. Jotten - Jotten, yes.

Q. He was plenipotentiary for lung diseases, wasn't he?

A. Yes, the so-called lung dust disease.

Q. Do you recall any other heads of scientific departments or plenipotentiaris concerning medicine?

A. No.

Q. Now, doctor, I put it to you that there were only two members of the Presidial Council of the Reich Research Council who were doctors and there were only four members of scientific departments or fields of plenipotentiaris who were doctors. I ask you, weren't each of you gentlemen familiar with the work that the other one was doing?

A. I don't think so.

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Q: Didn't you ever consult with Sauerbruch, Blome, Schreiber, or any of them?

A: As far as I remember I did not speak to Sauerbruch about any questions with reference to the Reich Research Council. I occasionally met Sauerbruch but that was mostly in connection with completely different questions, merely of a consultative nature. Neither did I speak to Blome about questions of cancer research as far as I recollect. And I certainly never spoke to S Schreiber about the combatting of epidemics. At the beginning of the war I occasionally saw Schreiber; After 1942 or 1943 I hardly saw him after that. As far as I recollect, I saw Mr. Jetten only once and that was at a period of time when the Institute for the combatting of lung-dust disease had not yet existed.

Q: Did Menzel ever consult with you?

A: I talked to Menzel regarding general academic questions. Menzel was not only the business manager and president of the Reich Research Council but his important task was the leadership of the Department science within the Ministry of Education and this department contained the Sub-department Medicine. I spoke to him with reference to this Sub-department Medicine within the Ministry of Education but as far as I know I never discussed any research tasks with him.

Q: Did you know anything about or have any connection with the assignment issued by the Reich Research Council to Rascher to conduct dry freezing experiments?

A: I did not know that. I learned about these experiments here for the first time.

Q: Did you know anything about or have any connection with the assignment issued by the Reich Research Council to Hirt of Strasbourg to conduct gas experiments?

A: I did not participate in this assignment and I did not know about it. I heard about Hirt's activity and the work itself because of the final report

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which Dr. Sievers brought to me in March of 1944. But even at that time I did not know that this assignment and this work were done in connection with the Reich Research Council, or were initiated by the Reich Research Council.

Q. Did you know anything about the support of the Reich Research Council and the Luftwaffe of Haagen's typhus, yellow fever and jaundice research?

A. No. I only learned about these experiments here, on the basis of documentary evidence.

Q. Were you or Rostock or any one in your office connected in any way with the research conducted by Rascher, Hirt, and Haagen, or any one of them?

A. I don't know about that.

Q. Did you know that concentration camp inmates were being systematically used in Germany for medical experimentation?

A. No, I did not know that.

Q. Did you never hear anything about such experiments other than the occasion, which I think you have already admitted, in connection with Gebhardt's experiments?

A. It is very difficult now to say, now that there is so much talk about experiments going on, that one had no knowledge at that time. However, I was now informed about these experiments. Regarding the experiments of Hirt, for instance, I was at Hirt's place at the end of April 1944, and I did not gain the impression that we were concerned with experiments on some concentration camp inmates carried through in camps.

Q. Herr Brandt, one of the important issues here is the extent of your knowledge about medical experimentation on concentration camp inmates and I want you to be very frank with us and tell us everything you know about that subject other than these few instances you have already mentioned. Do you limit yourself to the experiments specifically particularized in the indictment. I am interested in knowing the full extent of your knowledge about the use of concentration camp inmates for experimental purposes.

A. Any knowledge, which went beyond the frame of what has been placed in the Indictment against me, is not known to me. The entire material comprises a number of experiments and those experiments were not known to me. Two days ago, I defined my attitude towards the individual experiments. Beyond that, nothing became known to me about any experiments and, apart from that, I knew nothing about these experiments, how they were carried out, either numerically or to what extent they were carried through.

Q. Herr Brandt, is it true that Hitler had ordered that criminals might be used for medical experiments?

A. I assume that such an order was issued by him. Himmler, on his own initiative, would not have done that without being covered by Hitler. During a previous interrogation, I stated that, according to my opinion, it happened subsequent to the throat operation which he experienced in 1935, when he said that generally it would be correct to use criminals in order to clear medical problems with their aid. He did not repeat that in any precise or basic case, but it was his conception that it was correct. That is why I have the opinion, above all, after getting to know all of the evidence here, that Himmler was only carrying them through after being governed by Hitler after he saw to it that he was covered.

Q. Do you know, as a matter of your knowledge, that Hitler ever issued such an order?

A. I never learned the fact that he issued such an order; this is merely a conclusion and retrospectively speaking, which I assume is correct.

Q. Did you ever hear Hitler discuss such a matter?

A. No, I never heard him discuss it, except in general statements about such a matter.

Q. Well, what were his general statements?

A. That is all before. According to my opinion, took place in 1935 when he discussed the question of experiments on human beings

as such. It happened without any particular case or without indicating any certain procedure. Whether he came back to that subsequently or during the war, I do not remember. At any rate, it did not occur in my presence, but I am of the conviction that he did that especially in view of the personality of Himmler.

Q. And you state it is also your conviction that this must have been so because even Himmler would not have undertaken such things without being covered by Hitler; is that right?

A. I only drew a parallel with Martin Bormann and I should like to remind you about my discussion regarding Pastor Niemoeller. It is possible that the discussion between Himmler and the Fuehrer could have been carried on in a similar manner. It may well have been that the Fuehrer said something like that quite generally and Himmler then understood it and applied it to some specific case and then on his own initiative continued to deal with it.

Q. Herr Brandt, I know you have been interrogated many times, but I would like to ask you if you remember having been interrogated on this same subject, about a Hitler order, in August of 1945, possibly by a British officer.

A. I don't know that any order went from Hitler in that form in 1945.

Q. You did not understand me. I asked you if you remember having been interrogated by a British officer in 1945 on this same subject of medical experiments?

A. In August of 1945; it is possible.

Q. Here is a report I have in front of me, it indicates that you stated: first, that Hitler himself had ordered condemned criminals to be used for medical experiments; and secondly, that nobody should be punished for obeying orders; is that an accurate account?

A. I can do nothing with these two sentences.

THE PRESIDENT: Has the witness been shown a copy of this Document in German?

MR. MCHANNEY: If it please the Tribunal, I don't attach such importance to the evidence necessary and I will just withdraw the question. This is simply an interrogation report, it is not a verbatim report of the interrogation. It shows March 24, 1945 by Major Gill. It was done by an organization known as FIAT; a Field Intelligence Allied Technical organization.

THE PRESIDENT: Where was it made?

MR. MCHANNEY: At a camp known as Dustbin rather close to Frankfurt. I am not sure of the exact name of the city, however, we will not offer this document in evidence. I am simply trying to refresh the witness' recollection and I am asking him now about this Hitler order and whether or not it was actually issued.

THE PRESIDENT: The counsel can ask the witness if he knows of any such order and if he remembers any such order at this time.
BY MR. MCHANNEY:

Q. Herr Brandt, have you told us all you know about this order of Hitler, about which you stated it was your conviction that it was issued; do you know any more about it than you have already told us?

A. I don't know an order in that form. With reference to this interrogation of Captain Gill, which possibly originated after a number of discussions, it must be a formulation which he made for his own purposes, namely, a repetition of what I have said. These questions were put to me at the same time that the chart originated about my functions and physicians when only partly true statements were made.

Q. Herr Brandt, did you know a Keitel order that the army was to have nothing to do with experiments on human beings?

A. No, I don't know that order either.

Q. If he did not in fact issue such an order, how do you explain that Keitel knew that medical experiments were being carried out on human beings and that you did not?

A. This possibly is similar to yesterday's remarks about mental institutions in the eastern territory. These things could have been discussed during conferences on the situation in connection with the daily reports on the various illnesses, etc., and at such opportunities these experiments could well be mentioned. I assume that if Keitel received reports through such a channel, I think it is quite possible that any results of such experiments were reported to Himmler to Hitler and this was done in connection with such conferences on the situation; therefore, Keitel got to know about it. These conferences on the situation were usually of great length and they often lasted for hours and Hitler himself often spoke for hours. During such an opportunity it is quite possible that some such thing was mentioned.

Q. Herr Brandt, I want to remind you of Document No. 1309.

THE PRESIDENT: Before proceeding with the examination of the witness on these documents, the Tribunal will recess.

(A recess was taken.)

THE MARSHAL: Persons in the Court Room will please find their seats.

The Tribunal is again in session.

May it please Your Honors, the defendant Oberheuser has availed herself of the permission granted earlier today by the Tribunal and is, at the present time, absent from the Court.

THE PRESIDENT: The Secretary General will note for the record the absence of the defendant Oberheuser pursuant to excuse by the Tribunal.

BY MR. McHANEY:

Q Herr Brandt, I have handed to you Document No. 1309 which has been introduced as Prosecution Exhibit 326. It concerns biological warfare and is an official note signed by Klieve concerning a conversation with Professor Blum on 23 February 1944. Do you find the sentence about the middle of the first paragraph where it says: "By request of Field Marshal Keitel, the armed forces are not to have a responsible share in the experiments since experiments will also be conducted on human beings"?

A Yes, I have found the sentence.

Q Keitel was not a doctor, was he?

A No.

Q How do you explain that Keitel, Chief of the High Command of the Wehrmacht, would know about such a matter as this while you state to this Tribunal that you have no knowledge of systematic use of human beings in medical experimentation?

A I assume that Keitel obtained this knowledge from the discussions of the situation, which have already been mentioned, at which these things were apparently also discussed. These were basic questions of biological warfare which were certainly discussed in this connection.

Q But, Herr Brandt, isn't it perfectly obvious from this sentence that Keitel had some knowledge of previous experimentation on concentration camp inmates and that he knew that these biological warfare experiments were something of the same sort and he knew that he did not wish to be associated with them himself and so issued this order?

A It must be added that this was a report on a discussion between Kliove and Blome. It is assumed in the question which is asked of me that what is stated here corresponds to the facts. I believe one should ask Mr. Kliove and possibly Mr. Blome about this discussion.

Q Herr Brandt, you have been asked by your own counsel about supporting this Posen Institute of Blome's which was concerned with questions of biological warfare. Was this vast support which you assured Blome you would give simply in the nature of helping him with construction problems?

A It was only help in regard to construction questions, not in connection with biological warfare, but in view of his institute which he intended to establish there for the general production of vaccine, I may call it that. I said that the inquiry to which this document refers was between Blome and me by telephone and that a question of biological warfare and possibly any further resulting human experiments were certainly not discussed by telephone. I have also said that I wrote a letter at that time to the construction office which was helping in these matters in the Ministry for Armament and War Production and asked that Mr. Blome might be helped to establish his institution. In this respect, in connection with human experiments and so forth, there was nothing more between me and Blome.

Q What was this serum that he was to manufacture?

A I cannot say exactly what kind of serum it was. I only remember an institute in which he wanted to make arrangements to be able to produce various serums. From later discussions I know that he considered developing various substitute products, but I cannot give any exact information about that either.

Q Will you look at the second sentence in the second paragraph where it starts, "In particular, Professor Blome sees an obstacle in the employment of the Chemical Warfare Section of the Army Ordnance Office. Therefore, he wishes to make the suggestion to the Reichs Marshal and

Generalarzt Professor Brandt that the association be dissolved and he be permitted, not through the interposition of the Chemical Warfare Section of the Army Ordnance Office, to requisition airplanes for experimental purposes directly from the Air Force Ministry." Why should he mention your name in connection with a suggestion that the Association Mitarbeiter be dissolved?

A. I do not know. Perhaps he himself will be best able to say why he did that. He certainly did not report the matter to me, and I could even assume that he did not report it to the Reich Marshal. The name, Blitzableiter, I learned of for the first time through this document, 1309, itself. I never heard it before.

Q. Did you have any connection with this chemical warfare section?

A. Chemical warfare? With the chemical warfare section I had a certain amount of connection under the anti-chemical warfare program which began in 1944. It was a testing station for the necessary defense materials, and in connection with Luftwaffe Ministry's own testing stations, but it was certainly a different group of people who worked on these matters than the ones connected with this matter.

Q. Well, Herr Brandt, I rather thought that you had something to do with chemical warfare and lost problems before Goering's order of 1 March 1944. How long were you connected with this chemical warfare section of the Army Ordnance Office?

A. There was a Colonel Hirsch, whom I believe I met for the first time in the middle of March '44. I did not know him before then.

Q. Well, Herr Brandt, this document is dated 23 February 1944, and I must assume that you were therefore interested in chemical warfare problems before the order of 1 March 1944, that has already been mentioned in the record.

A. I have already said that this question was certainly outside of that. The decree, because of which Mr. Sievers visited me at that time, it was dated 1 March. In my opinion the question of Blitzableiter and my connection with the Blitzableiter is to be traced back to Blome's idea, who approached me about his general institute, and the reference that he wants to report to the Reich Marshal and Generalsarzt Dr. Brandt that the association will be dissolved and so forth has no justification in my opinion, has no basis in fact. Mr. Blome could not have had any reason to think that I had anything to do with the central office for the "W H Prufstelle 9" before 1944, and I myself do not remember that I met these gentlemen for any other reason.

Q Herr Brandt, did you have any connection with any experiments with gas prior to 1 March 1944?

A In the fall of '43 I was informed about general laboratory experiments which a Professor Bickenbach had made. These were experiments such as had been done in Strasbourg and I believe in Heidelberg too, and these are the only ones which occur to me in this connection. I also know that I no longer remember the date I was informed in a conversation that experiments had been conducted on cadets in the Military Medical Academy, but these are things which had nothing to do with the problem of "W H Prufstelle 9".

Q How did it come about that Bickenbach's experiments were reported to you? What interests did you have in his gas experiments?

A I had no interest in his gas experiments. I met Bickenbach for another reason, for a different reason, and then when we met again he informed me about what he had done.

Q And what did you do with respect to Bickenbach's reports? Did you have any other association with him?

A Later I helped him to arrange a laboratory in Strasbourg.

Q And that's the laboratory we heard some mention about from one of the witnesses from Strasbourg, was it not, Herr Brandt?

A I assume that it was the same one.

Q Do you recall that the witness Schmidt testified that there were rumors in Strasbourg that Bickenbach was experimenting with gas in one of the old forts?

A Yes, I remember that.

Q Do you also recall that he said that those rumors included the use of human beings by Bickenbach?

A No, I do not remember that from the testimony of the witness Schmidt, and it might have been a rumor, I don't know, but it is improbable since Bickenbach himself had approached me on the question of animals and I myself made every effort to get suitable experimental animals. And I do not believe that the fact that animal experiments are conducted justifies the conclusion that animal experiments are conducted in order that human experiments may be

conducted. The problem is rather of the opposite sort. Animal experiments are conducted because one is convinced that they are right in themselves and can lead to a result.

Q. Did you ever visit Bickenbach's experimental station in Strasbourg?

A. I do not know that he had an experimental station in Strasbourg. I looked at an electrical apparatus in Strasbourg, the cyclotron. I believe it was one of the only ones of this type that we had in Germany; it was finished but it was not used.

Q. Do you deny any knowledge that Bickenbach did experiments on human beings with gas?

A. He conducted animal experiments and he approached me expressly in order to obtain animals. I was only able to help him to a limited extent. It was very difficult for me to obtain animals, and before I met him, Bickenbach had only conducted animal experiments. The question of human experiments was something which was not discussed at this time. The experiments which he had begun before the war, I believe he wanted to continue, and these experiments were significant but only in rather theoretical beginnings.

Q. But so far as you know, Bickenbach did not experiment on human beings?

A. Bickenbach did not conduct any experiments on human beings.

Q. Why were you so interested in Bickenbach's work that you went to considerable trouble to secure experimental animals for him?

A. The task which he had set himself was a special one and it seemed quite justified to support this work. I was only able to help him in the year 1944, after he himself had established this laboratory for himself.

Q. Let's look again at the document before you, 1309; at the bottom of the second paragraph we find the language: "Especially necessary is an examination of our vaccine, the pestilential virus, plague vaccine in particular. Experiments must, accordingly, be made on human beings.

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Furthermore certain misconceptions concerning the effect of maximum doses of several poisons can be corrected only by experiments on human beings. As soon as Professor Blome has conferred with the Reich Marshal and Generalsarzt Professor Brandt, he will notify me."

Did Blome confer with you about these virus vaccine experiments on human beings?

A No.

Q Did he confer with you about the poison experiments?

A No.

Q Let's turn to the next page of the document; the memorandum dated 22 May 1944 directed to Blitzableiter. In the last sentence it says: "Furthermore, a nebulizer with motor drive has been built which sterilizes and disinfects the air in the room. The apparatus can also be used simultaneously for the purpose of decontamination. As soon as the various experiments have been completed the apparatus will be demonstrated to the association."

Herr Brandt, is that the apparatus in connection with the decontamination of poisoned water that you have previously mentioned in direct examination?

A. (Cont'd.) There is a difference in discussing the machine tools to decontaminate air and apparatus to decontaminate water.

Q Do you know whether a German law provides for imprisonment in concentration camps of criminals tried by ordinary German courts?

A No.

Q You were a condemned criminal in April of 1945, were you not?

A Yes.

Q Sentenced to death for the alleged treason; is that right?

A Yes.

Q I assume that you do not regard your trial as a fair one -- that is the trial for treason?

A No, because the sentence had been established beforehand.

Q Herr Brandt, of your own personal experience with German criminal justice, must you not conclude that hundreds of thousands of concentration camp inmates were improperly incarcerated and condemned to death?

A On the basis of my own experience I am convinced that that is so.

Q How many concentration camps have you visited?

A I did not visit concentration camps exactly; once I was with Mr. Dickonbach; I was outside the camp of Natzweiler where he had his animal station, and had set up an emergency laboratory which he wanted to give up and he wanted to show me what it was all about. On this occasion we were at the camp itself and we picked up some administrative official there who conducted us. Then, as far as I recall, it was during the war; I went through the camp Mauthausen, when the stone quarries were to be examined and the Fuehrer was in the neighborhood.

Q Were these the only two concentration camps you have ever been in?

A These were the camps which I saw.

Q Had you ever been in Sachsenhausen or Oranienburg?

A I was in Oranienburg once before the war.

Q You were never there during the war?

A I think it was before the war; perhaps in August or July, 1939.

Q Have you ever been in Dachau as the witness Neff testified?

A. No.

Q. Have you ever been in Buchenwald?

A. I was not in Buchenwald.

Q. I am glad to hear you mention that you had been in Natzweiler in connection with Dr. Bickenbach; you neglected to say anything about that when we discussed Bickenbach a few minutes ago, and we will return to that subject a little later. Now, Herr Brandt, do you remember having been interrogated in my presence on 5 November 1946; at the interrogation -- the interrogation you went over with your attorney last Tuesday afternoon; the document that was introduced in the record. That was Document No. 1730, Prosecution's Exhibit 441. I don't have a German copy to hand you right at the moment, but I just want to review with you some answers you gave me on that occasion, and to ask you then if you still maintain the correctness of the answers you gave. The question was put to you to give us a brief statement of what you knew concerning medical experiments on human beings. You answered: "There is nothing else I could say besides that which has already been recorded here and which was said in the course of the interrogation by the persons interrogated."

The next question was: "I only would like to know what you know about these experiments." Answer: "I only knew about the experiments of Gebhardt; this matter came to my knowledge only after I was arrested in May of last year."

Question: "And what did you know before you were arrested?" Answer: "Before my arrest in May of last year I knew of the matters Dr. Gebhardt and Dr. Fischer emphasized; I refer to the question, Mrugowski. Anything else in the way of experiments did not come to my knowledge. I had no contact with any of the offices, institutions and persons which played a part therein, nor did I know them previously. Herr Pohl and I met for the first time when he passed the death sentence on me as President of the Summary Court."

Question: "What I would like to know is what you had to do with the experiments." Answer: "I had nothing to do with them."

Question: "What do you know about Krugowski?" Answer: "I said that Krugowski was attending this meeting and was explaining some problems concerning the decontamination of water."

Question: "Did you know before of any experiments being made on human beings?" Answer: "As I have already stated the matters were Gebhardt's."

Question: "Do you know that Gebhardt was making experiments on human beings previous to 1945?" Answer: "In 1943 he gave a lecture at the Military Academy. He spoke about experiments on human beings."

Question: "What did Krugowski tell about experiments made on human beings?" Answer: "Krugowski was only explaining matters concerning decontamination of water."

Question: "Were these experiments concerning decontamination ever made on human beings?" Answer: "I am of the opinion that people drank this water."

Question: "Has anybody else carried through experiments besides Krugowski?" Answer: "That I do not know."

Question: "Do you know anything about low pressure experiments?" Answer: "No."

Question: "Do you know anything about typhus experiments?" Answer: "No."

Question: "Do you know anything about bone experiments?" Answer: "No, I cannot say anything at all about that; I did not hear of these things."

Question: "Do you know anything about the Lost Experiments?" Answer: "No."

Question: "Do you know anything about the work in experiments at the University of Strasbourg?" Answer: "I heard about it once, but these were not experiments on human beings. Sievers went to me once only and told me about experiments on animals made by Prof. Hirt; it was a very short visit only. I talked to Prof. Hirt and he showed me microscopic slides of rabbits, but no word was uttered then concerning biological experiments on human beings."

Question: "But you told us that you had no contact at all with these SS people, and now you say that these people have visited you." Answer:

"Seivers visited me just once. That Professor Hirt is an SS man is not known to me to this day."

Q. Herr Brandt, do you have anything to add to what was stated in that interrogation, or to what has been so far stated by you in connection with experimentation on human beings?

A. I should like to go back to these experiments of Professor Hirt once more. The report of the findings of the Final Report. I read here carefully: If one is looking for the question of human experiments, one could get the impression that they definitely were made. If one considers the question from a chemical point of view and wants to make his observations in that respect, then then this question of human experiments, especially in connection with concentration camps would not be recognized. When I visited Professor Hirt I did not talk to him about experiments on human beings; and after that I did not become aware of any fact that might indicate them.

Q Witness, I want to put a report made by Hirt to you. This is document NO 099 and was introduced as Prosecution Exhibit 268. Can you say whether this is the report which you received from Sievers?

A I assume that it is this report.

Q And you, I think, have already admitted that if one reads this report carefully, one reaches the conclusion that experiments were carried out with Lost on human beings; is that right?

A That is quite possible.

Q Have you also observed that mention is made of heavy, medium, and light wounds caused by Lost?

A Differentiations were made between the various types of wounds with reference to their severity, general symptoms and local symptoms.

Q You had mentioned in an earlier stage of the interrogation that you did not think that Lost experiments were dangerous. Does not this report indicate to you that some of the experimental subjects were rather severely injured?

A This report is not a report of findings about individual experimental subjects. It is a general report, from which one can conclude, however, that supplementing previous general experience and evidence, further experiments can be made. I have said that the Lost experiments, as generally conducted and as I knew them, as they have been described to me in the Military Academy, are unimportant, at first painful local skin symptoms, which later heal. In the meantime I have seen literature on the subject which confirms this.

Q Well, Herr Brandt, you did read this report, and you got it from Sievers in April 1944, did you not?

A I read it later. At that time I merely received it.

Q Did you read it before you visited Hirt in Strasbourg?

A Yes, I no doubt read it before that.

Q And didn't you observe upon reading it, just as you have now observed here, that it was perfectly obvious that he had experimented on human beings?

A I did not examine the report to that effect. I examined it to see

whether there was anything for me to do in connection with the result, and what seemed significant to me was the reference to vitamins.

Q Yes, it says, does it not, that the "organism stands the best chance of absorbing the damage caused by Lost if there is a large vitamin reserve in the body"? Didn't you further Hirt's experiments after reading this report?

A No, this final report had established the result, and at that time I attempted to create a certain vitamin reserve, seeing in that a certain protection. I did not support Hirt himself.

Q You deny that you and Rostock issued priority orders concerning Hirt's Lost experiments?

A I do not understand what you mean by "priority orders".

Q Did you issue any orders to any insitutuion concerning Hirt's experiments with gas?

A I don't know.

Q Herr Brandt --

A Do you mean any mention of Hirt's results or the fact that vitamin reserves were important?

Q No, I mean, did you issue any orders supporting research by Hirt with gas?

A I don't recall that I did. On the contrary, from a statement that has been made now that Hirt is supposed to have complained that I did not help him. I am not aware that I gave Hirt any special aid or special support of any kind. It might be that there was something in the Institute, since the name of Rostock was mentioned. It might be in connection with the general demands on the Institute from the University, addressed to Rostock, but I do not remember anything of that kind.

Q But you do not exclude the possibility that somewhere along the line there may have been some support by your office of Hirt's work?

A I don't know. I can only say that I do not remember anything of the kind. It might have been something to do with the question of vitamins. That might have been possible. I just said that I tried to create a vitamin

reserve.

Q Herr Brandt, can it not be definitely concluded from the report given on the sulfanilamide experiments by Gebhardt that those experimental subjects were deliberately infected with gas bacillus and gangrene in order to test the effectiveness of sulfanilamide?

A If experiments were conducted with certain infections, they were certainly conducted, if sulfanilamide was used, therapeutically, in order to show the effectiveness of sulfanilamide.

Q Do you see any reason for the necessity of artificially infecting women with gas gangrene when you had thousands of German soldiers who had such infections?

A It might in such a case be a very precise question which caused such an experiment.

Q But do you see any reason now, or can you give us any reason why these experiments could not have been carried out on German soldiers who had been wounded?

A It was perhaps necessary because one wanted to have quite clear differentiations, definite conditions of the wounds. I have already pointed out once before that the question of sulfanilamide was a problem to all of us and that the idea of having a wounded soldier accompanied, as it were, from the time he was wounded until he was healed is a solution, but that the comparative effect of sulfanilamide is more difficult — the realization of the effect is more difficult because the conditions of each wound are different. I could speak of these more easily if I knew more precisely the events from the side of the people who actually carried out the experiments. The one-sided presentation makes it difficult to judge because those who participated, for example, Dr. Fischer, I know personally as human beings, and I am convinced that they would have been willing to conduct such experiments only for definite reasons or under definite conditions. It was certainly not merely the desire to conduct experiments. It would perhaps be easier for me to answer the question when those who have participated in the sulfanilamide experiments have spoken themselves.

Q Witness, isn't it a fact that this Lost gas decree or chemical warfare decree which you received from Goering on 1 March 1944 concerned itself not only with gas masks, but also the treatment of wounds caused by gas?

A It referred to the apparatus against poison gas in general. That included decontamination including calcium chloride and other drugs.

Q But did it include medical therapy of gas wounds?

A It did not include therapy, but it included the materials for therapy.

Q Well, witness, how can it include materials for therapy such as drugs — I assume you have drugs in mind — unless there has also been some study as to how effective such drugs and material are on wounds caused by gas?

A It did not include the studies. I said that originally it included only gas masks and that in the course of time the program was expanded. As far as the drugs needed for the treatment of gas wounds was not established only until 1944, the methods of treatment in general are the same as in the First World War and have not changed in principle. New gases have been added. The effectiveness of these new gases was not quite clear and special experiments were certainly necessary.

Q Can you suggest any reason why this decree of 1 March 1944, which you sent to Himmler, should have been forwarded to Grawitz and Sievers if it didn't concern Lost experimentation and gas experimentation?

A I certainly did not pass it on to Sievers and Grawitz. I only approached Himmler. I have already said that I approached Himmler because the Reich Ministry of the Interior was competent for certain measures of air raid precautions, of the air raid police, and because I needed information on the need of air raid precaution apparatus. It was passed on to these two gentlemen by Rudolf Brandt, apparently because they misjudged the situation. He was presumably of the opinion that because I had passed on this decree as a doctor, it was a medical matter. It was, in principle, not a medical matter but it was my task in the controlling of production.

Q Herr Brandt, I want to put to you an extract from the Sievers' Diary for 1944. This was Document 3546-PS, Prosecution Exhibit 123. On the 2nd of February 1944, Sievers made the following entry:

"Met Professor Bickenbach in Karls Ruhe and he put his research work under the control of General Commissioner Professor Dr. Brandt. Discussion with SS-Hauptsturmfuehrer Hirt. Professor Dr. Dickenbach, without instructions from Hirt and Professor Steih contacted General Commissioner Professor Dr. Brandt concerning the phosgene experiments that were in Natzweiler with him. Commissions to be withdrawn! For our part, Natzweiler is to be closed."

Tell the Tribunal what "phosgene" is, witness!

A Phosgene is a chemical warfare agent in gas form which can be used in gas form.

Q What was the Professor Bickenbach doing with the research station at Natzweiler?

A He had been given animals at Natzweiler and had conducted his animal experiments there. There was obviously a tense relationship between him and Hirt so that he wanted to disassociate himself from the group there. He asked me to help him and I did help him then to establish this laboratory which was independent of Natzweiler. It was near Strassburg. And there he wanted to resume his phosgene experiments and he didn't begin to work -- later his work was broken off through the war conditions, about in September.

Q Herr Brandt, is it not a fact that Bickenbach was performing phosgene experiments on inmates of the Natzweiler camp?

A Bickenbach conducted animal experiments there.

Q What kind of animals did he use?

A He had dogs. I did not see the experiments there myself. I visited him. I saw cat experiments in Franzeck. I assume that there may have been cat experiments too. When I was there, that was in February, we were there only about ten minutes and he showed me the kennels and the cages to give me an idea of the extent of this experimental station in Natzweiler, in comparison with what he intended to establish in Franzeck.

Q Bickenbach was a Strassburg University Professor like Hirt and Hagen, wasn't he?

A He worked at the Polyclinic in Strassburg, the Medical Polyclinic.
Hagen was the hygienist.

Q Was Dickenbach an SS man?

A I do not know that.

Q Do you know that the Strassburg University was in effect an SS University, don't you?

A No, I do not know that either. The only SS members that I know, according to the documents here, where Hirt himself was an SS man.

Q Witness, since we are talking about the Sievers' Diary of '44, I would like to put another entry to you, this one dated 1 June. "To Dachau, SS-Hauptsturmfuehrer Dr. Floetner and SS-Unterscharfuehrer Eben. Answer of Inquiry concerning Polygol from Professor Rostock. By order of the Deputy of the General Commissioner for Medical and Health Matters." Do you know that Rostock got in touch with Sievers concerning polygol which had been developed at Dachau?

A I know that Restock on the basis of publication about polygal in the Munich Medical Weekly (Munchner Medizinische Wochenschrift) wrote to the addresses given in the magazine itself to find out what it was about. Restock certainly did not find out that the testing of the preparation polygal was carried out as a human experiment.

Q You have previously mentioned that you had knowledge of experiments on human beings concerning the chemical treatment of poisonous water, is that correct?

A That is not right in such a case as you speak of experiments. I was of the opinion that this water was tested in some way. It could just as well have been a troop experiment or anywhere else in the population.

Q Do you know upon when these experiments were conducted?

A No, I do not know that. I assume that Hrugowsky will be able to tell you that.

Q Didn't you receive any report about these experiments?

A No, I did not receive any report about them. This question of apparatus for decontamination of water came up because in connection with the general apparatus the question of water decontaminating apparatus was also discussed. Within the Wehrmacht there was no agreement upon methods which were not suitable and the Civilian Air Raid authorities were agreed. In the Ministry for Ammunition and War Production there was a special routine for the production of such decontamination apparatus. I asked the head of this committee to have those who were interested in this question and could tell me about it to come to see me. He did so and since he also knew from the production side that such an apparatus had been constructed with which Hrugowsky was in sort of connection, I am not sure what the connection was, Hrugowsky was also invited to this conference. I spoke to him afterwards. An apparatus for decontamination of drinking water was discussed which was such a success that it could be put into production. I cannot say whether that was actually done - it might have been in the summer of 1944 when there were certain raw material difficulties and it was decided to bring fresh water into such endangered areas.

THE PRESIDENT: The Tribunal will adjourn until 0930 tomorrow morning.
The witness to be put to cross examination will be kept separate from the
other witnesses.

(The Tribunal adjourned until 7 February 1947 at 0930 hours)

CORRECTED COPY

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt; et al, defendants, sitting at Nuremberg, Germany on 7 February 1947, 0930, Justice Beals presiding

THE MARSHAL: Persons in the Court Room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in the courtroom.

THE MARSHAL: May it please your Honors, all defendants are present in the Courtroom.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in the courtroom.

The Prosecution may proceed.

KARL BRANDT (Resumed)

CROSS EXAMINATION (Continued)

BY MR. McHANEY: May it please the Tribunal.

Q. Herr Professor, we were discussing the poisoned water experiments. Did you suggest experiments with poisoned water?

A. At the discussion which took place on the question of the possibilities of removing poison from water, there were two fundamental points of view; one, as far as I recall, was that certain decontamination apparatus was needed, I no longer remember the name of the procedure. The other was a procedure where chloric acid was used. The result of the discussion was that by virtue of the situation a decision as to which was the most suitable procedure was not possible.

In opinion at the time was that in case of poisoned water one would have to bring fresh water in tank cars or other containers from an area which had not been poisoned. The two representatives of the decontamination processes were of the opinion that their apparatus was good. No decision was reached.

at this meeting. I issued instructions to continue testing the apparatus. I said that the tests should be continued but in no concrete form.

Q. Why did they come to you with this problem? Was that in your capacity as General Commissioner?

A. That was in my function of the question of production of apparatus to combat gas in general. It was connected with my function as General Commissioner only to the extent that it was a special assignment, not otherwise.

Q. Did you not suggest that experiments be conducted with the poisoned water?

A. I may possibly have suggested that the apparatus and the process should be tested. These were primarily laboratory tests and were no doubt continued after this discussion as they had been carried on before.

Q. Don't you know that it was necessary to ... don't you know that the experiments were in fact carried out on concentration camp inmates?

A. That was not known to me in that form.

Q. You didn't concern yourself with the manner in which these experiments would be carried out?

A. No, I did not.

Q. You just gave these men carte blanche to do what they wanted to?

A. I did not give them carte blanche to do whatever they wanted. The offices concerned with it continued their work as they had been carrying it on before. It is not possible in general to establish the manner in which tests are to be carried out. I was interested only in learning whether a certain apparatus for decontaminating water was considered the best and the easiest to produce in this special committee in the Spear Ministry, or whether there was any such apparatus. These conferences were devoted only to the possibility of producing apparatus.

Q. Who was Oberstarzt Dr. Hirth?

A. Oberstarzt Dr. Wirth was the consultant for gas matters in the Military Medical Academy. I do not know whether that was his official title but in any case, in my opinion, he was the Chief of the men concerned with chemical warfare agents.

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Q. And he conferred with you on these poisoned water experiments, didn't he?

A. I do not believe that he was present at this meeting. I cannot say for sure but I do not believe so.

Q. When was this meeting, to the best of your recollection?

A. In the summer of 1944.

Q. And did you not suggest that water be poisoned with Lost and then tested for the effectiveness of the decontamination process?

A. It is quite possible that something of this sort was said. It is a question of the apparatus itself. It has to be poisoned with some gas and then with some filter method or chemical method. The poison has to be removed, that is the point of this problem altogether.

Q. What is K substance?

A. That is a chemical warfare agent; gas in general.

Q. What is N substance?

A. As far as I am informed, it is a fuel which was to be used for explosive purposes but which the Weapons Office rejected at that time and it was thereby eliminated from the list of chemical warfare agents. In my opinion it was to be used in a similar way to phosphorous. I may be mistaken; however, I have no exact knowledge about it.

Q. Could it be that N substance was a type of Lost gas or mustard gas?

A. No, certainly not.

Q. And you don't know whether or not these experiments were carried out on human beings?

A. In my opinion the water decontamination experiments were purely laboratory experiments with chemical tests. I did not see any myself but that was certainly the general method of tests.

Q. Did you follow up this matter and receive reports on it?

A. I did not follow up this question of decontamination myself. There was the head of a special committee for that purpose who tested these things. It is possible that I received one more report to the effect that one process or another was more suitable. No measures or steps were actually taken because the raw material was not available.

Q. What was this committee that was concerned with this matter?

A. That was the Special Committee for Drinking Water Decontamination

Apparatus.

Q. Suppose we put Document No. 154 to you, doctor? I have put Document No. 119 to the witness but I failed to have that marked for identification. I would like that the record now show Document No. 119 has been offered as Prosecution Exhibit 445, for identification.

This is Document No. 154 which we offer as Prosecution Exhibit 446 for identification. Herr Professor, is the Reich Institution for Water and Air Purification the committee which you have made reference to?

A. No, the head of this committee which I mentioned was a Ministry of Henrich. I believe this committee which I mentioned belonged to the Ministry for Armament and War Production and was managed like the other special committees there.

Q. You stated that it was one, and that these experiments were not carried out on concentration camp inmates. Let us look at this document, which is Report No. 25, dated 31 March 1945, apparently made by the Reich Institution for Water and Air Purification and concerning experiments carried out at Hamburg-Neungamme, a report by Dr. Jaegers and Reg. Bauinspektor Kumpfert:

"In agreement with the Reich Fuehrung SS, experiments were carried out at Hamburg-Neungamme with drinking water preparation 44/5 in order to determine whether W-acid of various concentrations would cause any disadvantages to health and whether, if this were not the case, drinking water containing K substance would not be injurious to health after treatment with W-acid."

"The experiments were carried out on approximately 150 persons who comprised a single community. The camp doctors made the medical observations. Sturmabfuhrer Dr. Ebel also took part in the experiments for several days during which the high lewisite concentrations were used."

Do those first paragraphs indicate to you that concentration camp inmates were used?

A. Yes.

Q. I don't think it is necessary that we read the whole report but I would like for you to turn to the second page. Do you see the sentence which says, "The camp doctors could not observe any effects harmful to the

health of the experimental subjects."?

A. Yes.

Q. And the following paragraph reads as follows:

"A third series of experiments was carried out with an agent of the Lost group, the asphyxiating gas Lost, in accordance with the suggestion made by Oberstarzt Dr. Wirth at the conference on 4 December 1944 with Reichskommissar Dr. Brandt. Since chemical analysis can prove the presence of the asphyxiating Lost only within a period of approximately one hour, the presence of X substance in the untreated water was probable in every instance, while in the case of potable water it was believed the level of probability (below 8.4 milligrams per liter) or the N-Lost had already been destroyed by the W-acid."

Is that the conference and meeting which you have been telling us about here, or is this another meeting held by you and your associates?

A. I cannot say. I had only one meeting with this committee about drinking water apparatus. I said that was in the summer of 1944. If the date is given here as 4 December, it is possible that the discussion was not in the summer but in December.

Q. And you now must conclude in fact that the experiments were carried out at the Hamburg-Neuengamme concentration camp. Is that right?

A. On the basis of this document it appears that special tests were made in the camp at Hamburg-Neuengamme following the discussion. Yes.

Q. In order to be perfectly fair with you, Doctor, I want to point out the next to last paragraph of this report. It says that these experiments, which were suggested by Wirth in your presence and apparently with your support, that they did not cause any effects harmful to the health of the experimental subjects. Do you find that?

A. Yes.

Q. Now, Doctor, did you ever suggest any other experiments on concentration camp inmates?

A. As far as I know, I made no precise suggestions concerning concentration camp inmates. I must assume from the report that even before that the experiments had been carried out in a similar way, but none were special

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experiments. This nitrogen-Lost experiment was made later. I do not recall, either in this case or in any other case, that I suggested experiments on concentration camp inmates.

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Q. Well, now, you have told us about your association with Bickenbach. You deny that he experimented on concentration camp inmates; you deny that you had any knowledge of Hirt's gas experiments on inmates at least; you deny having supported Dr. Dohmen's jaundice work in Sachsenhausen. Did you ever have anything to do with incendiary bomb or phosphorus experiments on concentration camp inmates?

A. Not that I know of. The question of the treatment of phosphorus incendiary bomb wounds was discussed in 1943 and '44. As far as I know the decisive thing was the type of treatment, results coming from a Munich clinic concerning the use of copper sulfate solution.

Q. Did you ever ask the SS through Heydler, Rudolf Brandt, Grawitz, Wolff, or any other person to put concentration camp inmates at your disposal for experiments of any kind?

A. I do not recall any concrete case.

Q. Did you ever write Karl Wolff a letter suggesting that food experiments be conducted on concentration camp inmates?

A. I cannot recall it. I do not know in what year that was supposed to have been.

Q. Well, let's refresh your recollection with Document NO-1419.

(Document handed to witness.)

Q. Is that your signature on that letter?

A. Yes, that is my signature.

MR. McHANEY: We offer this document as Prosecution Exhibit 447 for identification.

Q. Suppose you read this letter to the Tribunal?

A. "Obergruppenfuehrer Wolff, Headquarters of the Fuehrer"; the date is 26 January 1943. "Dear Obergruppenfuehrer, Since I have had ample material in the meantime about the development of concentrated food, as a special sector, for example, the area of the fortress of Stalingrad, I would like to repeat once more the matter as discussed at that time. Is it possible to carry out pertaining nutritional experiments in concentration camps?"

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In this connection I should think it necessary to contact Dr. Luft at the Medical Research Institute for Aviation and Ministerialrat Ziegelweier, the consulting nutritional expert with the Wehrmacht. A clear chart of the experiments, corresponding with the actual conditions, should then be drawn up jointly. I think it quite possible to obtain eventually new, valuable results in comparatively short time."

Q Well now, witness --

A The letter is signed by me.

Q This was a contact by you with the SS, wasn't it?

A Yes.

Q I understood that you have previously testified you never had any official contact with SS men?

A This Obergruppenfuehrer Wolff was at the Fuehrer's headquarters. That is shown on the address. He was the liaison man with the SS. He was formerly the adjutant of Himmler and then in 1943 or the beginning of the '44 he was replace. The discussion which are mentioned here, as the first sentence shows were results of concentrated food given to our Wehrmacht in surrounded areas in the East which was dropped to them by parachute.

These concentrated rations consisted of various groups. There were distinctions especially in the manner in which the fat was included. They also varied according to the protein content. The rations intended for one man, as far as I recall, corresponded to about 3500 calories. These 3500 calories were calculated on the basis of various sums of fat, carbohydrates and protein, and after the experience of Stalingrad it was not clear, especially in view of the food which the Food Ministry could make available for this purpose, which was the most suitable form. In order to clear up this question, I has made this suggestion to Mr. Wolff as this document shows, after

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I had informed the Fuehrer on the basis of a discussion with Mr. Ziegelweier that there was no agreement in this food question. He had said that this was probably the quickest way to solve the question, and I passed on this assignment. I did not consider this anything special, and besides, I had forgotten about it

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Under other circumstances it would have been called a troop experiment.

Q. Was the experiment carried out?

A. I cannot say whether it was carried out.

Q. Didn't you have some contact with SS Obergruppenfuhrer Pohl in connection with this matter?

A. I do not recall that I received any information from Pohl about it. It might be, but it is possible that according to the suggestion made here the continuation of this question was done by Ziegelweier and Luft themselves.

Q. And this matter came up long before the second Fuchrer decree which explicitly covered medical science and research, didn't it?

A. The date of this letter is the 26th of January 1943. This was not a question of research. It was a question of practice.

Q. Don't you remember that Wolff was sick about this time and that he passed your letter on to Pohl?

A. No, I don't remember that. It is possible that he was sick at this time. It is also possible that he passed the letter on to Pohl.

Q. You said the other day that you had only met Pohl here in the prison. Are you sure that Pohl did not get in touch with you in connection with this matter?

A. It is possible that he wrote to me. I cannot remember it. As far as I know I saw Pohl for the first time here in the prison. I might have met him once before without knowing that it was Pohl, but I do not remember.

Q. Do you remember whether Pohl told you about certain food experiments he was carrying out in concentration camps, experiments with poisonous foods?

A. I cannot remember having spoken to Pohl at any time before I was arrested here. It is, of course, possible. It is possible that the removing of poison from food was said to me on some occasion, but without any documents I cannot remember it. Perhaps I might explain it just as I have explained this case here if I have a document before me.

Q. Yes, it's always nice to know what's in the document.

A. In this document here, yes, it is very clear what's in it.

Q. Herr Professor, did you ever suggest that any drugs be tested on concentration camp inmates?

A. I do not believe so. I cannot remember. What specific drugs?

Q. Suppose we see if Document NO-1382 will refresh your recollection in that regard? This is offered as Prosecution Exhibit 448 for identification. This is a teletype from the defendant Rudolf Brandt to SS Obersturmbannfuhrer Baumert, marked secret.

"Dear Paul, SS Brigadefuhrer Professor Dr. Brandt called up and requested the approval of the Reichsfuhrer SS that ten prisoners from Oranienburg should be made available as of tomorrow for two days, to test a certain drug. Nothing would happen to them.

"The tests have already been discussed and must be started tomorrow morning, 5 February. SS Gruppenfuhrer Dr. Grawitz is only waiting for permission from the Reichsfuhrer SS. Please obtain the decision and pass it on immediately to Dr. Grawitz, Heil Hitler, signed, yours, Rudi."

A. I do not remember what this was about. I don't know.

Q. Do you deny the possibility that you requested Grawitz or some other SS man to have these prisoners made available to you?

A. According to the teletype message here, I did that, assuming that this is authentic, but I cannot remember what it was about. There is no indication -- it says two days. I don't remember it.

Q. You see the second page of the document, witness, indicates that the prisoners were made available. This is dated 8 February 1944, Field Command Post. "SS Gruppenfuhrer and Generalleutnant of the Waffen SS Gluecks hereby confirm approval of Reichsfuhrer SS, for ten prisoners from Oranienburg to be placed at the disposal of SS Brigadefuhrer Professor Dr. Brandt (SS Gruppenfuhrer Professor Dr. Grawitz). Signed, Grothmann."

Tell the Tribunal who Gluecks was, witness?

A. Gluecks was the head of all the concentration camps. I did not know him. I did not even know his name. I was of the opinion that that was Pohl, but I have learned here that it was Gluecks, and that Pohl had only an intermediate or a liaison position between Gluecks and Himmler.

Q. Well, Herr Brandt, whether or not you knew Gluecks you knew where to go when you needed concentration camp inmates for experiments, didn't you?

A. If there had been anything like that I addressed Wolff in this case, as in the first letter in '43, and here apparently through the same channels an appeal went to Himmler.

Q. But you have very expressly denied any connection with the jaundice matter which is the content of the letter of June 1943 where it says you were furthering Dohmen's experiments and wanted ten prisoners from Oranienburg.

A. I do not remember that I turned to Grawitz on behalf of Dohmen or that Grawitz approached me in this form. These three letters which I have here, the first with the food question, there is nothing which could fall under the concept of experiment. The second letter, this teletype, it's not clear to me what could have been the causes of it. I do not know whether anything was done. Certainly I did not know whether anything was done. Certainly I did not do anything. Otherwise I am sure I would remember a drug. I don't know what it was.

Q. But, Herr Brandt, it says you called up and requested --

A. Yes, I can read that here, but I do not remember what it was about, what it could have been about. I want to clear up this concept of experiment. This document that you showed me before, of the 26th of January '43 on the food question; that is not what we normally understand by an experiment. It is a parallel use of certain foods, but it is not an experiment on human beings.

Q. Well, Herr Brandt, it does show though that you were in contact

with the SS and that you had gone there to obtain prisoners for whatever purpose, and you have very vehemently denied that earlier in this interrogation and in other interrogations that you had anything to do with the SS, and now we find that you knew exactly where to go when you had some little test that needed to be made on human beings. Now, do you want to tell us about any further experiments where you went to the SS for prisoners?

A. I have already said that I do not remember any. I have no idea of any.

Q. Well, maybe you will remember this one a little better. Let's have a look at Document No-1620. This is offered as Prosecution Exhibit 449 for identification.

(Document handed to witness)

Q. Herr Professor, will you please read this document aloud?

A. Yes. A letter signed by Grawitz to the Reichsfuehrer SS Himler.

"SS Brigadefuehrer Professor Dr. Brandt has approached us with the request to test a new ointment for treatment of phosphorous burns which is still in the experimental stage.

"As I consider trying out this ointment on German civilians for burns received in terror raids, would take too much time and would be unreliable in respect of testing methods, and as, in view of the importance of the problem, I do not believe that experiments on animals would produce sufficiently conclusive evidence, I respectfully ask you, Reichsfuehrer, to grant permission for experiments to be made in the hospital of the Sachsenhausen concentration camp on individual prisoners and prisoners who are unfit for work on account of illness. Signed, Grawitz."

Q. Do you remember anything about this matter?

A. I remember this ointment. I believe it was made by a firm in Bonn. I went to various agencies with the it which had something to do with air warfare. I gave it to the civilian air raid service and I no doubt gave it to the Reich physicians of the SS and the police. In

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this letter Grawitz says: "As I... meaning himself, ..."consider trying out this ointment on German civilians for burns received in terror raids, would take too much time and would be unreliable in respect of testing methods, and as, in view of the importance of the problem, I "...Grawitz..." do not believe that experiments on animals would produce sufficiently conclusive evidence, I "...Grawitz..." respectfully ask you, Reichsfuehrer, to grant permission"... and so forth.

I certainly did not give this ointment to Grawitz in order to have it tested on any concentration camp inmates. I gave it to him as well as to other people, to other agencies, so that it might be tried in practice. This suggestion did not seem right to Grawitz so that on his own initiative he translated my suggestion of a test, and he considered that it would take too much time to test it on civilians in air raids. I say expressly that I gave it to him to be tested in this way.

Q. This letter is only about three months after the jaundice letter from Grawitz, isn't it?

A. Yes, three months later.

Q. And it is only twenty-five days after the issuance of the Second Fuehrer Decree which you state was the first time you could have had any possible interest in medical science and research?

A. The dates are correct, but an appointment which I pass on to other agencies because it was given to me has nothing actually to do with the letter itself. What is generally meant by science and research is a more extensive concept than the reference to the testing of a salvo.

Q. Let's look at the second page of the document, Herr Brandt. It is dated 7 October 1943. It is a letter from the Defendant, Rudolf Brandt to Grawitz.

"The Reichsfuehrer-SS agrees to experiments being made with the ointment for phosphorous burns at the Sachsenhausen Concentration Camp on individual prisoners who have become unfit for work through illness." with the initials "BR". I would like to remind you, Doctor, that the incendiary bomb experiment as charged in the indictment in this case took place in November 1943, at the Buchenwald Concentration Camp. Do you think that there is any possibility that these documents which you have before you now really represent the starting point of the incendiary bomb experiments which took place at Buchenwald rather than Sachsenhausen?

A. I cannot say whether there is any direct connection. I cannot eliminate the possibility. I can add that from 1943 on the problem of incendiary bombs and injuries from phosphorous was a general problem in Germany, and if one examines medical literature, one will find that there was probably a new mention of it in every weekly. It is quite possible that independently of each other experiments were carried out in Buchenwald as well as in Sachsenhausen and at other places. As far as time is concerned, at this time we were all interested in this question of phosphorous burns practically or theoretically.

Q. Doctor, isn't it a monstrous thing to conduct phosphorous experiments on concentration camp inmates when you have so many pitiful German civilians who had been burned in air raids?

A. I was not of the opinion that such experiments had to be carried out in concentration camps. The letter shows that this was Grawitz's opinion. If this was his opinion, he, no doubt, had the idea that in some cases of injuries which were kept parallel, a conclusion could be drawn more readily concerning the effectiveness of a therapeutic agent than if the primary injuries and burns were different, similar as in the case of gun shot wounds during wartime.

Phosphorous burns, no doubt, occurred in the concentration camps, too, because they were sometimes hit by air raids. As far as I know, that was the case particularly in Buchenwald. If one overlooks the primary pain involved in the injury and the wound is not too extensive so that there are general burn symptoms, the injury is not too serious. Decisive in the question of the therapeutic agent is what chemical is used to neutralize phosphorous which has a relative low burning temperature. Experiments carried out in the camp Sachsenhausen, I did not learn anything about them from any report, and the first report on such burns inflicted for the purpose of therapeutic treatment I heard of in the trial.

Q. I can appreciate that you feel it necessary to justify these incendiary bomb experiments, Doctor. Do you deny that you asked Grawitz to test this ointment on concentration camp inmates after they had been deliberately burned with phosphorous?

A. In answer to this precise question I must say that I am not aware that I recommended this ointment, presumably this Bonn ointment, to Grawitz in order to have it tested on concentration camp inmates. I do not know whether it was a suggestion by telephone or in writing from me. I cannot say.

MR. McHANEY: I have no further questions.

RE-DIRECT EXAMINATION

BY DR. SERVATIUS:

Q. Witness, at the beginning of the cross examination
you were shown

a document NO-890.

THE PRESIDENT: Let the record show that Counsel for Brandt is conducting the re-examination after cross examination.

BY DR. SERVATIUS:

Q. Document NO-890, Exhibit 443, was shown to you. The document refers to the child, Anna Gasse, and a letter reached you according to which you were asked to intervene in favor of the child. What specialized knowledge was necessary to take action in this case?

A. No specialized knowledge was necessary. The letter does not say what was wrong with the child so that this question could be cleared up

by a general medical understanding. In this case I had to get a general impression of the condition of the child.

Q. Witness, you told of the case in Leipzig where this child was born that was blind and without a hand and a foot. What specialized knowledge did you need at that time in order to fulfill the assignment which was given you by Hitler?

A. There was no question of specialized knowledge here. The decision was on a human ethical basis in regard to the child and the parents of the child.

Q. Witness, you talked to Pastor Bodelschwing on the question of Euthanasia. What specialized knowledge did you need then?

A. Here again it was not a question of specialized knowledge, either surgical or psychiatric. The talk was entirely on a medical and humane discussion of ideas. It did not require any special psychiatric knowledge on my part as far as the institution at Bethel was concerned. A part of the patients at Bethel were not psychiatric cases primarily. They were deformed and monstrous. A general medical knowledge was quite enough to be able to talk on these questions in general.

Q. Then I may conclude that your activity was not that of a specialist basically?

A. It could not be if you mean my activity as far as the problem of Euthanasia was concerned. I did not exercise any function as a specialist in psychiatry. There were other doctors appointed for this function. I was concerned with the general medical questions.

Q. Then how was the decision of specialized question taken care of?

A. Specialists were appointed for that purpose. Three days ago I said that not only psychiatrists were included as experts and chief experts from general mental institutions but that the heads of university clinics participated, Wuerzburg, for instance, Berlin. I believe there were two or three others, too, Heidelberg.

Q. You were also shown a document NO-825, Exhibit 358. This is the questionnaire with the memorandum. Was this questionnaire sent to all hospitals in Germany?

A. No. It was sent only to the mental institutions, that is, to places where the patients were primarily insane.

Q. Was it sent to Kupperheimer?

A. No.

Q. Was it sent to tuberculosis sanitariums?

A. No.

Q. To other special institutions?

A. I do not believe so. The indications, referring to specific diseases such as epilepsy, schizophrenia, show clearly that they were insane. It was sent only to such institutions.

Q. In the institutions where no questionnaires were sent, were there persons incapable of working?

A. Yes, of course.

Q. Do you believe that there were large numbers?

A. That would depend on the institution in question. For example, the tuberculosis sanitariums have a much larger percentage of seriously ill persons who were ill for long periods than a small city hospital with a rapid turnover of patients.

Q. Do you believe that in the institutions which did not receive any questionnaires that there were more people incapable of working than in the mental institutions?

A. No. There would probably be more in the mental institutions. The numbers were changed during the war by the number of injuries, the injuries in Germany.

Q. But you believe that there were a large number?

A. A relatively large number.

Q. Now why did these institutions not receive any questionnaires when the question of inability to work was brought up?

A. I have pointed out several times here that the question of inability to work had nothing to do with production but was only a part of the diagnosis in order to get a picture of the total condition of the insane person. If it had been a question of getting ahold of people incapable of working as such, then questionnaires would have been sent to all institutions.

Q. I have another question about these questionnaires. In 1939 and 1940 were there still Jewish hospitals, and were there Jews in other hospitals?

A. Yes.

Q. Did these hospitals receive questionnaires?

A. No. Again it would have been necessary to send questionnaires to all hospitals.

Q. Then I may conclude that it was not intended to get hold of all Jews in hospitals?

A. No. In 1939 the questionnaires were set up purely for the insane and sent to the mental institutions. Probably for general statistical reasons additional information was asked for on the questionnaires just as a general questionnaire on the institution was included.

Q You have already said that during cross examination. Witness, you belonged to the entourage of Hitler. When do you believe that Hitler decided to exterminate the Jews? Do you know anything about that?

A I can say nothing about that. Looking back at the period as shown by the documents, I can assume it was about the middle of the war. I did not learn anything about it myself at the time.

Q You were also shown Document No. 1758, Exhibit No. 444. This is an excerpt from Halder's diary. According to this, the killing of insane persons in the insane asylums in the occupied Eastern territory is described as necessary. Was that decision from the medical point of view?

A I do not know how this decision came about. I heard nothing about it at the time. I do not know the condition. It might have been due to other matters rather than the medical one. I do not know.

Q Witness, the incident of 21 September, 26 September, and 1 October 1941, was that the time the German Army Group North was advancing?

A North and Center, I believe.

Q Do you believe that the killing of insane persons at that time was possible without the aid of the organizations under the Euthanasia procedure?

A I am convinced that the two things had nothing to do with each other.

Q Do you believe that there was any intention of carrying this out by way of Euthanasia as Bouhler's office had carried it out?

A I do not know. I cannot say anything about that. The information might have to be supplemented by other information. It is possible that the diary of Halder's does not contain only these three entries, but further information. The one word mental institution Nowgorod has no meaning in my opinion. It could mean that some administrative staff or something else was to be established in that area.

Q Then, I may conclude that these measures could be carried out without your being informed?

A I was not informed.

Q Then, Document No. 892 was shown to you, Exhibit No. 442. That is a letter from the Public Transport Company of 20 July 1943, to the mental institution Hadamar. The letter concerns the transfer of insane persons in connection with the evacuation of areas endangered by air raids. Were only

insane persons transferred from these areas at that time?

A. No, at that time there was a general evacuation of the sick, which was undertaken at that time. I looked at a map and discovered at first a sanatorium a little south of Paderborn. I assumed that this might concern an evacuation of the institution for the insane to have an evacuation hospital for Paderborn which was continually being attacked because of its railroad junction. And, in the same way as Doctor Schmidt indicated for Eichberg from 1943 on it was used as a general evacuation hospital.

Q. Then I may conclude that these were general measures and not specific measures?

A. No, not specific measures. It was a general measure which was necessary from this time on.

Q. Did you issue instructions as to how the individual hospitals were to be evacuated?

A. No. There were general instructions which went through the entire Administral Air Raid Committee. There could be special cases. If I encountered something on the spot, for example, there was Cologne, Penn--there were such possibilities, but in general I did not deal with the specific cause but only with the general instructions.

Q. Witness, yesterday it was said that the Fuchrer principle was decisive for you in your profession. Do you believe that medical question could be dealt with according to that principle?

A. No, medical questions depended on the doctor as far as their decisions were concerned.

THE PRESIDENT: The Tribunal will recess for a few minutes.
(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

Q Witness, do you believe that it is correct to know whether the people with whom you collaborate are physically and mentally healthy or whether they are considered as suffering severely?

A It certainly would be decisive to know about the possibility of efficiency of his collaborators.

Q Do you believe that it is important for the state to know whether the responsible politicians or other personalities are physically and mentally competent?

A The same thing as what I have just said will apply in this case and even to a larger extent.

Q And do you believe that applies still more if the state is in danger as a result of the war?

A That would be the same thing for both cases; and I would even say that in the last case it would be more acute.

Q Do you believe that the state is entitled to make this information available to it?

A The institutions within the state were from the very beginning following this procedure. For example, in this case I can refer to the Wehrmacht where losses on a large scale or even smaller losses were reported through normal channels.

Q Witness, I am asking you once more to look at Document NO-119, which was presented yesterday in the course of the cross examination. This is a letter according to which doctors were told that they did not have to maintain their secrecy any more; and I want you to take a look at Page 3. Then I want to read the text to you once more. It is stated there: "Physicians, practitioners, and dentists are not only relieved from secrecy towards the General Commissioner Brandt but I am now obligating them to report immediately after their diagnosis of a serious and progressive disease to a person occupying a leading and responsible position within the state, the party, the Wehrmacht, the economy, and so on, and then to inform me for my own information. 23 December 1942. (Signed) Adolf Hitler."

In your opinion does this request violate the oath of Hippocrates? Is something being demanded here which the physician from his professional ethics should refuse?

A In general the physician is obligated to maintain secrecy about what he finds out in the course of his profession and not to pass on any information. He is relieved from this moral law at the very moment when his knowledge implies a general danger because a physician knows that in some cases, for instance, in the case of the dangerous insane patient, he of course is obligated to impart the knowledge which he has gained in practicing his profession and obligated to pass it on for general safety. Then the general interest exists; and it is far above the interest of the individual patient. Therefore there can be exceptions. In the previously mentioned questions there is a reference toward the necessity, resulting from the decree of the 23rd of December 1942.

Q Do you know the history and the origin of this decree?

A Yes.

Q What were the reasons for it?

A There were two acute cases; in one case a gauleiter and in another case a general became insane. The physicians who were treating them, especially those of the general, maintained secrecy and carried out a treatment for a period of two years without any information being imparted to the public. These precise cases were the causes of this decree.

Q And the obligation to maintain secrecy has been determined by law?

A Yes.

Q Was this is the only case where an exception was made from the obligation to maintain secrecy or were there other cases where reports had to be submitted about diseases?

A I can once more refer to the military procedure. That is about the only thing that I remember at the moment.

Q In the hospital is there an obligation to report?

A Yes, naturally.

Q Therefore I can conclude from your statements that the interests of the individual under certain circumstances must be subordinated to the

interests of the public?

A Yes.

Q Witness, today several documents were presented to you about drinking water experiments and food and the testing of ointment. Now, first of all I want to ask you, is there any difference between experiments which were carried out for purposes of research and experiments in practice which were being carried out with drugs?

A Before a drug can be used in practice, theoretical laboratory preliminary tests are usually made. Under some circumstances certain experiments are carried out on animals; and it, of course, depends on what drug is concerned.

Q In testing and practice there is a fundamental difference from making experiments in research?

A From a certain period of time let us assume that a drug is ready for practical use and from that moment on this drug is used in such a way as though it had already been tested for years in practice.

Q Witness, in your interrogation you have stated your views with regard to the individual experiments and you have judged them with regard to their necessity and with regard to the volunteers. Will you please tell us something about what has been mentioned today? Perhaps first of all you can tell us something about the questions of drinking water, that is decontaminated water.

A I want to state in connection with this that I am not acquainted with the exact procedure. The document shows that the testing of this decontaminated water no doubt already had behind it a long period of preliminary testing in laboratories. After all, these are special apparatus and such apparatus was suggested for production.

Q Witness, will you give me a brief statement as to the danger of the experiments which have been presented here?

A I want to describe them as negative because the document itself sets forth that no danger was implicated. In time of war the production and preparation of apparatus for the decontamination of drinking water is of the

highest importance.

Q How can you judge in this case the question of the volunteers?

A In this case I cannot judge whether these experiments were carried out on volunteers or not.

Q You used the words "troop experiments." Is a troop experiment a voluntary experiment?

A A troop experiment in my opinion is quite natural. An order is issued on the basis of considerations which have been made previously; and then within the unit a corresponding order is issued to test and to carry out the experiment. The question of using volunteers or not using volunteers is of subordinate importance in this case because in the imposition of such an experiment the danger and other considerations are not even considered.

Q Were the experiments which were carried out or suggested with regard to concentrated food important experiments?

A They were important experiments which were not in any way dangerous. They actually meant the contrary. The ration contained twice or more the number of calories; and certainly those who took them were not subjected to any danger.

Q Can you perhaps describe to us more in detail of what such experiments consisted and with what they dealt? If I am informed correctly, then such food in concentrated form was to be dropped from the air.

A. These were rations which had been computed in relation to the demands of front-line soldiers; and I think that the rations had been set at 3500 calories. This number of calories was to be brought together in as small an area as possible. The selection of special fats, oils, and so on as a substance played an important part in order to fill the intestines. Various kinds of protein had been selected, consisting of various meat substances and various sorts of meat. There were differences which lay within this field.

Q. Was the experiment carried out to see if this food was dangerous to the health of those who were taking it?

A. We wanted to test the composition of these food substances as to what composition would be perhaps the most agreeable and easily digested. However, most of all we wanted to test which would be the most suitable in helping a soldier to carry out his assignment.

Q. Will you please state your view with regard to the question of the treatment of lost burns and also with regard to their danger?

A. Yes, I will mention this phosphorous ointment. I believe that I received such an ointment from a factory with the corresponding label; and it was pointed out that this was particularly suitable for the treatment of phosphorous burns. We tested this ointment and used it in our clinic at Berlin. However, in order to reach quicker results, I passed this ointment on to other agencies.

Q. Professor, I should now like you to state your views with regard to their danger and importance. We know the rest of the subject.

A. At that period of time such an ointment was very important to us. The danger depends on the size of the phosphorous burns.

DR. SERVATIUS: Mr. President, I do not have any further questions for the witness. I would like to clarify a mistake which has been made in the translation. I am informed now that the following has been wrongly translated. We spoke here of "obligations of reporting contagious diseases" and then it was translated as "compulsory reporting of diseases in hospitals". I believe it will suffice for me to point out that this has been a misunderstanding.

THE PRESIDENT: Is that in one of the documents, or in the witness's testimony?

DR. SERVATIUS: This term was probably misunderstood by the interpreter.

THE PRESIDENT: My question for information was whether the mistake was in one of the documents or a mistranslation of witness's oral testimony on the stand.

DR. SERVATIUS: It was a mistake in the oral statements. I do not have any further questions.

THE PRESIDENT: The witness may be excused, there being no further examination of the witness.

MR. HARDY: Prosecution has no further questions, Your Honor.

THE PRESIDENT: The witness may be excused.

DR. SERVATIUS: May it please the Tribunal I now want to call the witness Lammers.

THE PRESIDENT: The Marshal will summon the witness Herr Hans Lammers.

JUDGE SEHRING: Mr. Marshal, place the head phones on the witness.

HANS HEINRICH LAMMERS, a witness, took the stand and testified as follows:

JUDGE SEHRING: You will hold up your right hand and repeat after me the following oath; I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

DETECT EXAMINATION

BY DR. SERVATIUS:

Q Witness, please state your name and date of birth?

A Hans Heinrich Lammers. Born on 27 May 1879 at Labinitz.

Q What position did you occupy during the War?

A I was Chief of the Reich Chancellery.

Q What was your assignment and your activities?

A The Reich Chancellery was the office of Adolph Hitler in his capacity as Reich Chancellor and it was the agency which normally handled the contacts between the Ministries and the Reich Chancellor as far as no other channel was prescribed. Its main task consisted in the formation of directives, of the legislation, laws, decrees, and Fuehrer decrees which were submitted by the Ministries or which were requested by the Fuehrer and Reich Chancellor.

Q. Witness, I am now handing three decrees to you. According to one the defendant, Karl Brandt, got a special position as Commissioner for the Medical Services and also as Reich Commissioner. Do you know of these decrees?

A. Yes, I know of these decrees.

Q. Did you play a part in their drafting?

A. Yes, I have helped to draft them and I have submitted these three decrees to the Fuehrer for his signature.

THE PRESIDENT: Counsel, have these documents been admitted in evidence in the case?

DR. SERVATIUS: Yes.

THE PRESIDENT: For the sake of the record, will you refer to the numbers of the exhibits?

DR. SERVATIUS: They were presented as exhibits.

THE PRESIDENT: Will you refer both to the document numbers and exhibit numbers so the record will identify them?

DR. SERVATIUS: They are: Document NO-080 - that is Exhibit 5, document NO-081 - that is Exhibit 6, and document NO-082 - which is Exhibit 7.

BY DR. SERVATIUS:

Q. Witness, will you now state your view with regard to the decrees, first of all with regard to the first decree. What was the purpose of this first decree?

A. The purpose of the first decree was to appoint a Commissioner who was to carry out the coordination between the interests of the Military Medical Services and the Civil Medical Services. Furthermore, it sets forth that the person to be appointed Commissioner for the Medical Services, Dr. Brandt, was to handle certain special tasks in the Military and Civil sectors, also for the coordination between the two sectors, and particularly he was given the right to be constantly informed and given authority to include himself in his responsibility.

Q. As a result of this did Karl Brandt become the superior of other officers?

A. In my opinion Professor Brandt did not become the superior of the agencies which have been enumerated expressly here. He only had the right to issue directives according to State legal procedures which we used. Such a right to issue directives did not yet establish a superior relationship. A typical example for this is probably the Commissioner for the Four Year Plan, Goering. He had the extensive right to issue directives toward all agencies of State and Party and he still did not become superior of these agencies. This decree had also been intended that Brandt did not become superior. He could only issue orders and issue directives if he wanted to include himself and he had that special right.

This authority depended on the fact that a certain directive existed -- that he issued such a directive to these agencies for the fulfillment of his tasks. And, such a directive had to be complied with by all agencies and he could only give such a directive in the field of his special task. He was only authorized to issue orders within the framework of his tasks.

Q. What was the meaning of the second decree?

A. The second decree, in my estimation, is only a relatively unimportant extension of the first decree in which Brandt was appointed to represent tasks and interests of the Medical Services and in this supervision were included certain special tasks in the fields of Science, Research, and organizational establishments for the distribution and production of medical supplies. He had also been given the authority to appoint certain commissioners and deputies for the fulfillment of his tasks.

Q. In the order regarding science and research, what did the subject deal with?

A. This individually were the orders which Dr. Brandt received. I cannot remember it all. I only knew that they were in the fields of the medical Services or that they were connected with this field.

Q. Now, give us the reasons for the second decree, and what is its importance?

A. In the year 1944 the Fuehrer wanted a considerable extension of the authority of Dr. Brandt for the fulfillment of the tasks which had been assigned to him expressly. I had several notes handed to me. I received the order to draft this decree. I myself maintained the point of view that the new authority would have to be limited, that it would have to limit the competencies with regard to the other agencies of the medical Services. I feared that extensive authority would lead to strong competition in the administrative field. Therefore, as I can remember exactly, I drafted approximately four different decrees in which, first of all, I precisely limited the competencies and in the third one less,

and then in the fourth and fifth decrees which was not limiting them very close. I myself favored the most limited draft for giving authority. The Fuehrer, however, favored the most extensive version, that is, the version which was contained in the decree of 25 August 1944.

For the previously mentioned reason I did not like this very much and I made the remark that it would be better to transfer the whole Medical Service from the Reich Ministry of Interior and the other Ministries and to appoint a Minister of Public Health. Then the Fuehrer replied, "That is exactly what I do not want."

Brandt is only to have as free hand as possible for this special task, and extensive right to issue directives." Because this was legally of the utmost importance to me I expressly stated that as a result of the third decree the authority of Brandt from the first and second decrees were not rescinded and the Fuehrer answered this question in the affirmative and as a result of the third decree also contains the words "at the same time". At the same time he was Reich Commissioner for Sanitation and Health System and this was to show that the two other decrees and authorities were continued in existence. However, as a result of this I then publicized the third decree in the Reich legal code without rescinding the two other decrees because the first two were to remain effective. In this decree, namely in the first, it is stated that the main direction was with the Chief of the Wehrmacht Medical Service and Chief of Health Service and Ministry of the Interior, competent State Secretary, and then what is not contained in the decree, naturally, to the Reich Ministry of Interior who was the superior of the Chief of the Medical Service.

Q. Witness, you are speaking of the right to issue directives. Did the first and second decrees already issued give such authority to issue directives or was this given only in the third decree?

A. Please permit me to look at the decree for a minute.

In the first decree paragraph 3 sets forth that for the special tasks Brandt will receive personal directives from the Fuehrer. However, in the first decree I do not see anything about a right to issue directives and only about the authority to intervene in a responsible manner. Of course, this may have meant a certain right to issue directives. In the second decree I do not believe that this is particularly mentioned. But then the third decree sets forth that Brandt is authorized to issue directives to organizations of the state, Party, and Wehrmacht.

Q. It is therefore correct that only from August 1944 on such a right to issue directives had been specifically stated?

A. It was only specifically stated in the third decree.

Q. Witness, did Brandt, as a result of this, become the head of the entire medical service?

A. This question must be answered in the negative in my opinion because, as I have already stated, he was not the superior of the other agencies of the health and medical service but was only equipped with the right to issue directives for certain specialized tasks and this right to issue directives he could exercise in accordance with the directives of the Fuehrer and according to his own estimation. The head of the medical service, like a Minister for Public Health, he could not be. First of all, it had been specifically stated he was not to occupy that position and secondly, with the small administrative machine at his disposal and with the limited amount of funds which had been granted to him for his tasks by me -- and I had to grant them because I had been ordered to do so -- then he could not have fulfilled all the tasks presented by the medical and health service.

Q. Is it correct that he was only to have a free hand for the execution of the special tasks which were given to him?

A. According to the directive and motives which were given to me in drafting the decree, this authority was only to extend to these special tasks whose extent was, however, not known to me.

Q. Will you please put these decrees aside and we will come to a

different subject. That is the question of euthanasia. Do you know that a solution of the euthanasia program was suggested by Hitler?

A. Yes, I know about that.

Q. When did you first hear about this?

A. I heard of it for the first time in the year 1939, in the fall of that year. In the fall of 1939, it may have been at the end of September or the beginning of October, the State Secretary Dr. Conti, the Chief of the Civil Medical Service in the Reich Ministry of the Interior, was called by the Fuehrer to attend a conference. I was also consulted for this conference. On that occasion the Fuehrer discussed in my presence for the first time the problem of euthanasia. He stated that he considered it appropriate that life unfit for living of severely insane patients should be removed by intervention which would result in death. As far as I can remember, he named as an example the severe mental diseases in the course of which mental patients could only be bedded on boards or excelsior because they could not keep clean and in cases where patients took their own excrement as food, and in connection with this he stated that it probably would be most appropriate to exterminate the lives which were unfit to live of such patients. He also stated that this also meant a certain saving in hospitals, physicians, and nursing personnel. In my presence he issued the order to State Secretary Dr. Conti to occupy himself with this question and to use my support in handling the legal aspects. Dr. Conti replied that he also approved from the medical standpoint the extermination of such life unfit for living and that he would examine the question in detail. I had not been prepared to any extent for this subject and at that time I only made a very general statement that the subject included innumerable problems not only of a medical kind but also, to a large extent, inner political, foreign political, and also clerical political problems, and also problems of a religious and ethical kind, and I also stated that it did not seem appropriate to me to select a time of war for the solution of such problem and that the matter should be postponed, if possible. I then stated further that if it had to be carried out under all circumstances then it would be only a question of establishing a law provided with all legal guarantees. The Fuehrer did not go

into my statements in detail and stated that this still could be examined, but he maintained the order which he had given to Conti and dismissed us.

Q. At that time was the name of Professor Brandt mentioned?

A. During the discussion the name of Professor Brandt, according to my recollection, was not mentioned nor were any other names mentioned. The discussion only referred to the general solution of the problem and, immediately following the discussion, I told Dr. Conti I would think over this matter once more and that I would contact him later. I then began to draft a law which, as I imagined, would contain the legal guarantees which were necessary under all circumstances - exact limitations of the most severe cases which had to be determined by medical men, and exemptions which were to be made, for example, for those patients who had become insane during the war, during maneuvers and other civil service, or so-called "old age insanity" and similar cases. In my opinion it was also necessary to specifically state that only German insane patients should be subjected to this procedure in order to express the fact that foreigners would be exempted.

Q. Witness, these are views which you maintained with regard to the problem. However, that was not the subject of the discussion.

A. At that time this was not the subject of the discussion but I only finished this and I waited now for State Secretary Conti to contact me in accordance with the instructions he had received.

Q. Did Conti do this?

A. Conti refrained from doing this. Only after several weeks he telephoned me and told me that he had been relieved of this assignment by the Fuehrer and at that I considered this matter as closed. However, in the year 1940 I again had to occupy myself with the question. In the spring of 1940 Reichsleiter Bouhler visited me. He was the Chief of the Chancellery of the Fuehrer, NSDAP, and he visited me in my railroad coach in Belgium and told me that he was just coming from the Fuehrer and the Fuehrer now wanted to turn over the solution of the euthanasia question to him. I discussed the severe objections existing against that with him and also submitted the draft of the law to him and told him this would still be a solution if this subject could

be approached in such a way so that a publicized Reich law was established. Bouhler didn't seem to approve of my draft and did not refuse it, but he told me that the procedure to be applied could be routed through administrative channels.

At the conclusion I told Bouhler that I would have to report to the Fuehrer once more about the matter. I did this a short time later. At that time the Fuehrer read over the draft of my law. He did not expressively disapprove of it; however, he stated that for political reasons such a law seemed undesirable to him. Subsequently I did not hear anything more about the subject.

Q At that time, during the discussion which you had with him, did the Fuehrer mention the name of Professor Brandt?

A That name was not mentioned.

Q Witness, when did you hear of the authority which actually was given to Brandt and Bouhler?

A I was not informed about the authority which had been given to Brandt and Bouhler through official channels. As I have previously said, after many months, it may have been early in 1940, I received knowledge that action was actually under way of which I had not previously known. At that time I found out that the Fuehrer had actually given an authority to Brandt and Bouhler for the execution of the euthanasia program. This authority did not pass through my hands. Only in the course of discussions which later on I had with the Reich Minister of Justice I found out and was informed about the contents of these authorities.

Q Now what sort of complaints were there which came to your attention?

A These complaints were not very numerous. First of all they came from individual persons and there were some from relatives of those insane patients who had died. However, the most important complaints came from the church. I also can remember that there were two complaints which I believed it to be my duty to follow up immediately. One was from the Wuerttemberg Landes Bishop, Wurm, the evangelical Bishop, and the second came from the Catholic Bishop, Count Gahlen; I believe that he lived in Muenster. These complaints were officially handled by me; I passed them on to the Reich Minister of the Interior, who was competent for this, and I brought them to the attention of the Fuehrer; I also discussed the question with the Reich Minister of Justice. After the complaints were drawn to the attention of the Fuehrer the whole action was discontinued. However, I did not get any official information about this

either. I had not been consulted but I only obtained knowledge of the fact that in the year 1941, this may have been in the spring or the summer, the action was discontinued.

Q Witness, weren't there also complaints by prosecutor's courts and other authorities?

A Yes, we had such complaints, especially by judges and guardians who had to care for their adopted children. I followed up this matter and I contacted the Reich Minister of Justice. The Reich Minister of Justice started an investigation and I can remember exactly that two detailed reports arrived, one from the General Attorney at Stuttgart and the second one from the Chief Prosecutor at Naumburg. These reports occupied themselves with these questions. The Reich Minister of Justice passed them on to me and I took them to the Fuehrer and then passed them on for further handling to the Reich Minister of the Interior. You have these complaints here in the form of documents and they have been presented to me in previous interrogations.

Q Witness, what did the Reich Minister of Justice do then? Did he consider the matter illegal and did he declare it illegal or was it legalized in the end?

A The Reich Minister of Justice, Dr. Guertner, came to see me and at that time he was in a great difficulty. He had grave misgivings and he did not know what to do. I advised him that he could only report to the Fuehrer -- I myself could not give him any advice. I considered a law necessary under all circumstances. I had played no part in granting the authority and now I could also not take a stand at this time. However, the Reich Minister of Justice, Guertner, as far as I know, did not consult the Fuehrer but he probably maintained the point of view that in issuing the authority the Fuehrer had laid down a law which he had to comply with. I do not know--this is only an assumption on my part. Any later procedure which he wanted to do in this matter, was stopped.

Q Do you know how the authority was distributed between Bouhler and Brandt?

A I do not know the least thing about it. I only know that only Bouhler confronted me in the matter in the spring of 1941. Brandt has never made his

appearance before me. I know that Bouhler has made his appearance with the Reich Minister of Justice. However, I have never dealt with Brandt at all in the whole matter, neither before the action or after the action, and I have only discussed with him a long time after the action, when I was a prisoner together with him at Mandorf, in Luxembourg, in 1945. However, I knew that the authority was in the name of Bouhler and Brandt.

DR. SERVATIUS: May it please the Tribunal, I do not have any more questions to put to the witness.

DR. FROESCHMANN: (Defense counsel for Defendant Viktor Brack): Mr. President, I want to ask the witness a number of questions. However, I believe that the time would now be appropriate to call a recess.

THE PRESIDENT: The Tribunal will be in recess until 1:30 o'clock.

(A recess was taken until 1930 hours.)

CORRECTED COPY

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 7 February 1947.)

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL: Mr. President, the Defendant Oberheuser asks the Tribunal, in consideration of her status now, to be excused again today at 3 o'clock.

THE PRESIDENT: Upon request of Defendant Oberheuser extended through her counsel, the defendant may be excused from attendance in the court for reasons of her health at 3 o'clock this afternoon.

Counsel may proceed with the examination of the witness.

HANS HEINRICH LAUBERS -- Resumed.

EXAMINATION BY DR. FROESCHMANN:

Q. Witness, you were Chief of the Reichschancellery?

A. Yes.

Q. As such you had opportunity to meet high personalities of the former German Government--at least part of them?

A. At least part of them.

Q. Do you know Martin Bormann?

A. Yes.

Q. What position did Bormann hold?

A. He was at the end, head of the Parteikanzlei, after Minister Hess left in '41.

Q. I merely want to have this cleared up for the information of the Tribunal. Martin Bormann was a personality who will play an important role in the course of this trial. Witness, I should like to ask you what kind of a person was Martin Bormann?

A. It is difficult to say in a few sentences. Please, make this question a little more concrete.

Q. What character traits were predominant in the thinking and actions of Martin Bormann?

A. After I had been mistaken about his character I finally reached the conclusion that he was a very subtle and hypocritical character who was able to mask his true intentions skillfully.

Q. Was Martin Bormann a man who tried to concentrate as much power as possible in himself?

A. He actually did attempt to do that. He always denied it, he always said that he wanted nothing less than power. But on the basis of my knowledge of developments of which I learned to a large extent only after the collapse in 1945, I came to the conviction that he actually tried to obtain a certain power and tried to eliminate other people in his field. In particular, I had the experience that he tried.

Q. Please speak a little more slowly, witness.

A. I was convinced that he tried to take away as much power as possible from me since I was a state agent from which he believed that he was constantly receiving opposition in his actions. This position which I might have had he constantly tried to undermine, especially by having himself appointed Secretary of the Fuehrer and as such became active in the state sector too.

Q. Witness, are you aware that Martin Bormann was filled with ardent hatred of Jews?

A. He did not emphasize it when speaking to me but I am convinced that he was an opponent of the Jews.

Q. Witness, do you agree with my opinion that Adolph Hitler, under the influence of Bormann in the years 43 and 44, made and partly realized these plans to evacuate and exterminate Jews in Europe?

A. Yes, those were things which I as a witness under oath, testifying to facts, these are things about which I can say nothing.

Q. Witness, do you have any indications, any reasons to share this opinion which I have just expressed?

A. At the moment I could not give any indication.

Q. Did you have the impression, witness, that Hitler was under the influence of Bormann?

A. In my opinion Bormann's influence on Hitler was rather great, exactly how great it was I am not able to judge. These are subjective things that happened to Bormann and Hitler about which I can say nothing as a witness.

Q. Then you will not be able to answer the question whether Martin Bormann was Adolph Hitler's evil spirit.

A. That was as a personal opinion which I would like to affirm, but that is only a subjective feeling, intuitive feeling which I cannot prove by any concrete facts.

Q. Do you know Obergruppenfuehrer Heydrich who was murdered?

A. Yes, I knew Heydrich.

Q. Was Heydrich also a person like Bohmann who was striving for power?

A. In my opinion Heydrich was to a much greater degree even, and it was expressed much more openly.

Q. Did Heydrich influence the Reichfuehrer SS Himmler strongly?

Do you know anything about that?

A. He certainly had an influence on him but I cannot give any concrete facts about these things.

Q Now, witness, what was the relationship between Martin Bormann and Reichsleiter Bouhler?

A I believe it was rather loose, they did not see each other often and they were in a sense rivals. The agency of the Reichsleiter Bouhler which was called the Chancellery of the Fuehrer of the NSDAP was a party organization. In addition to the Party Chancellery, there were certain organizations, and I know there was strong friction between Bouhler and Bormann, because Bormann wanted to control matters himself.

Q Witness, did you learn that Martin Bormann did not approve of Bouhler's so-called weak attitude on Jewish questions?

A I never talked to Bouhler about it and I did not hear about it.

Q Did Dr. Conti belong to Bormann's staff?

A As far as I know, no. He was under the Reichs Ministry of the Interior, also he was an honorary officer in the SS - I must correct myself, he was later made subordinate to Bormann by being made legal health leader in the party sector.

Q Witness, do you know anything about the fact that Adolf Hitler, before the events which you discussed this morning, gave the assignment to Bouhler to introduce Euthanasia?

A I can say nothing about that formally, but today I am convinced that the powers which were given to Brandt and Bouhler bear a different date --

Q I will come back to that witness.

A Then the date of the signature.

Q I merely wanted to ask you when in the summer of 1939, or in August 1939, Adolf Hitler might have given Reichsleiter Bouhler the assignment to introduce Euthanasia for incurably insane persons.

A I know nothing about that.

Q Do you know that Martin Bormann heard about this and tried to appropriate these Euthanasia measures?

A I do not know anything about that either.

Q Then you do not know either that Martin Bormann suggested to Hitler that he assign this to Dr. Conti.

A No, I do not know about that either.

Q You probably do not know that Conti did not want this assignment and then the situation became as was described?

A I can only say that Conti told him the assignment had been taken away from him.

Q Witness, I shall show you Document 630-PS, Exhibit 330. That is the decree of Hitler of September 1, 1939, which I need not read again as it has been mentioned several times. Please read through this decree witness. What do you consider the legal character of this statement of Adolf Hitler?

A If I may express myself generally, I can only say that in this extreme form it does not correspond to the form which was customary for state decrees.

Q Did Adolf Hitler issue many such important decrees in such form?

A In individual cases, but I believe there were only a few cases. The Fuehrer did not like to worry about external forms, sometimes he used this form when it was not submitted by an expert but that happened very seldom.

Q Now, witness, what did you do when such significant instructions from Adolf Hitler came to your attention and they were not in the correct form?

A That happened very seldom, only once or twice. If such a decree in this form was submitted to me, because I also had to sign it, then I adjusted the form to what was customary for a state decree; that is I crossed out Adolf Hitler and at the bottom above the name Hitler, I wrote The Fuehrer or the Fuehrer, Reichs Chancellor, or I changed it at the top and I wrote the Fuehrer or Reichs Chancellor and that was changed in the course of time. Then, I put the Reich seal on such decrees and since I had to certify these statements of the Fuehrer, I signed them.

Q Witness, now this statement of Adolf Hitler of September 1, 1939; did you ever see it?

A I believe I saw a copy or the original; I do not know. For the first time when the Reichs Minister of Justice Dr. Gurtner, at the end of 1940 or the beginning of 1941, visited me, as I testified before, and talked to me about what was to be done about the information received, that was the first

time I had seen it. It did not go through my hands, but today I cannot say with certainty whether I saw the original or whether I saw a copy.

Q Witness, you just said that a person who did not have the necessary specialized information could not find any objections to the form of such statements of Adolf Hitler; is that true?

A Yes, it happened that if Minister Speer submitted something in a form which was not correct, if it came to my hands I corrected the form. The Fuehrer himself did not think it was very important, if something was shown to him, he thought it must be right and he signed it.

Q Witness, I asked you before what you consider the legal character of this statement of Adolf Hitler without consideration of the form; please answer this question.

A That is a question which is very difficult to answer, it is debatable. I said before expressly that I explained to the Reichs Minister of Justice that I considered a law necessary. I did not consider this enough, but the Reich Minister of Justice Dr. Gurtner was apparently of the opinion that this was a valid order from the Fuehrer, that is a law, consequently, he stopped the proceedings.

Q Witness, if outstanding jurists were of the opinion that this decree of Hitler was a fully valid legal decree, that it had the value of a law, then persons without legal training certainly had to think that this decree was a fully valid law?

MR. McHANEY: Just a minute, please. I must object to the question and I ask that it be stricken. I know of no testimony in the record which gives the opinion of any great legal experts that this was a valid law and I don't think that the question can be put to him in that form. He has been asked for his opinion and he has given his opinion.

THE PRESIDENT: The objection of the Prosecution will be sustained. The matter is not pertinent to the question in its present condition and the answer insofar as it has been made will be stricken.

BY DR. FROESCHMANN:

Q Witness, this morning you spoke of a meeting between you and Reichsleiter Buehler in 1940; do you know whether Reichsleiter Buehler in May or June of 1940 visited Adolf Hitler in order to ask him that he be relieved of his duties as head of the Chancellery?

A No, I do not remember that.

Q I have no further questions, Mr. President.

THE PRESIDENT: Is there any further examination of this witness by the defense counsel?

(No reply.)

Prosecution may proceed to cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q. Dr. Lammers, do you still have the three decrees, the Fuehrer decrees, concerning Karl Brandt's appointment as a General Commissioner before you?

A. I do not have the decrees.

(Documents handed to witness.)

Q. Witness, you say that Dr. Karl Brandt was authorized to issue instructions within the medical field of his special tasks. Now, these tasks have not been defined. Do you know what these special tasks were?

A. This morning I said that the contents and extent of the special tasks were not known to me in detail; that I only know that they were in fields of economics and science which had some connection with the medical and health service; for example, in obtaining drugs, other medical supplies, and similar things and in scientific research in the field of war injuries. That is what I know about it. I did not concern myself with the details, and I had no interest in the details of Dr. Brandt's special assignment.

Q. Now, Doctor, will you kindly look at the first section of the July decree of 1942 and which you aided in the drafting thereof concerning the powers given to the chief of the medical services of the Wehrmacht; namely, Dr. Handloser, and will you tell us what powers as a practical matter did this first decree give to Handloser?

A. Paragraph 2 of Number 1 says about Handloser's tasks: "The Chief of the Medical Service of the Wehrmacht is to represent the Wehrmacht before the civilian authorities in all common medical problems arising in the various branches of the Wehrmacht, the Waffen SS and organizations and units subordinate or attached to the Wehrmacht, and will protect the interests of the Wehrmacht in all medical measures taken by the civilian authorities." This defines the task of Handloser.

Q. Could you tell us as a practical matter what powers Handloser received from this language you have just read to us?

A. He represents the Wehrmacht as chief. He negotiated with Mr. Conti on the civilian side and also with Mr. Brandt as far as Brandt had any special assignments.

Q. Did he have any powers over the other sectors, such as the medical services, the Army, the Luftwaffe, the Navy and the Waffen SS?

A. The powers of the chief of the Wehrmacht medical service I don't know in detail. They are set down in other administrative regulations, not only here. They are all the powers which the head of the Wehrmacht medical service had. They were not repealed by this. They were only mentioned here in a certain direction for the purpose of this decree to coordinate military and civilian health services.

Q. Now, witness, as I understand it you were chief of the Reich Chancellery. Now, in that position you were considered to be a so-called link between the Fuehrer and all the Reich ministers; is that correct?

A. Yes, unless there were express exceptions.

Q. Now, isn't it true that your duties dealt mostly with the legislation of new laws?

A. No, only with formally directing this legislation. I did not even formulate new laws. I only directed the course of the legislation; that is, bills which came from ministers or other officers I turned over to the proper authorities. I received objections and negotiated, and finally some law or some regulation was agreed upon and then I edited that. I was not the legal authority for all questions by any means. I was only in charge of formal things, of the procedure of legislation.

Q. Well, now, in that connection for the benefit of the Tribunal will you kindly outline what requirements had to be met in order to promulgate a valid law; that is, did it require a vote of a governing body? Did it need to be duly published in the official law journal, the Reichsgesetzblatt, and all other details necessary to validate any such law?

A. If a law was to be issued the draft had to be given to all

members of the government, to all the Reich ministers, with a certain time limit. A stamp was put on it which said if until such and such a date -- it was period of two or three weeks, sometimes longer, sometimes less -- if there has been no objection by this time this will be considered approval. As sessions of the Reich Cabinet took place only until 1937 then such things were still discussed orally. After 1937 there was only a written procedure, and this ended with elimination of certain objections and then approval of agreement on the law.

If one could assume that there was no objection by the ministers then I got the signatures of the ministers concerned, not all of them, and then I gave it to the Fuehrer for his signature. If there were still objections these objections were decided by the Fuehrer, or it was said we had to work on it some more until the objections had been eliminated. And if it was a law it had to be done in this way and then published in the Reichgesetzblatt.

Q. Now, Doctor, you have stated that you participated in the drafting of the proposed euthanasia law. Will you tell us what this draft contained, what requirements must be met before the execution of the program would have taken place?

A. I can tell you approximately the contents of my draft. First, it was said that under certain conditions the life unworthy to live of German insane persons can be removed. The, as I had intended it--these were only my ideas--then there was to be a provision that the severe diseases were listed from the medical point of view. A paragraph was to be added establishing general exceptions. As I already said this morning insane persons who had become insane through injuries in war were to be excepted; also those who had contracted the disease in public service, also senility; also a number were left open because that was primarily a medical question.

Then careful observation was provided with consideration of the purpose. I had set this observation for one year. It was variable. Then the interests of the person concerned were to be preserved; a special

nurse was to be appointed; the relatives were to be questioned; the community was to be consulted and so forth. And after the period of observation, a group of doctors and specialists, with a legal official presiding, was to decide. Since the composition of this group varied, one could make various suggestions.

Then the type of election, of voting, was to be determined, and then an executing physician was to be chosen. In my opinion this doctor was to have the opportunity to observe the patient for three months, and if he believed that the decision of the board was not right he should have the case reviewed. There should be an appeal authority. Then there were a number of other questions of execution which I do not remember now, which were to have had to be settled if such a law was passed, so that actually only the most severe cases would be affected, and so that a decision in favor of death would be reached only if it was such a severe case that it seemed advisable to bring about death, if one in general holds the point of view that a mercy death is advisable.

Q. Now, Doctor, it is true that your draft of this euthanasia law was never enacted or accepted. You had the intentions, of course, of having this law meet the requirements of all other proposed laws; that is go through the regular procedure and eventually resulting in publication in the Reichsgesetzblatt. Is that a correct assumption?

A. When I thought about this question, of course, I considered a problem which was not in the field of law and medicine but a problem which was more in the field of legal philosophy and ethics. The question -- what are the limits of the power of the legislator -- that, in my opinion, was the basic question in whether or not to pass such a law. But I did not reach any decision on this basic question. I did not want to; I could not; and I did not have to. I was convinced that if this draft is submitted and distributed to all the ministers -- this took fifty to sixty copies -- then the objection to this measure will be so strong that this measure will die of its own accord, at least will not be settled during wartime and can be taken up only when a time comes that these problems can be investigated thoroughly. I was convinced that the objections to a draft would be so strong that the law would never have been passed.

MR. HARDY: Thank you, Doctor. I have no further questions, your Honors.

REDIRECT EXAMINATION

BY DR. SERVATIUS:

Q. Witness, you were asked whether this was a formally valid law. You said that the customary requirements were not fulfilled. Are there other possibilities in addition to a law?

A. What the prosecutor asked me was only what in German jurisprudence we call a formal law, a law which has been passed by way of legislation, and one of these ways was a law passed by the Reich Government. Other ways were by passing a decree or a decree of the Fuehrer. The Fuehrer decree had been taken over from the period of von Hindenburg. It was nothing new that had been established by the Fuehrer, and this Fuehrer decree was not passed in this formal way. No one had anything to do with it except the ministers who

were participation, and they were only consulted. Their approval was not necessary. The Fuehrer alone determined. And if the Fuehrer wanted a Fuehrer decree or if a minister wanted a Fuehrer decree, then I sent a draft of such a decree to the ministers concerned and asked for their opinion. It was sufficient if the ministers were consulted. Whether they had objected, whether they had approved made no difference actually because the Fuehrer alone decided.

Q. Then the external form of a decree does not indicate that it was invalid?

A. That is, in my opinion, a doubtful question.

Q. You mentioned two cases before when these requirements were not necessary.

A. I produced them.

Q. The Minister of Justice considered it a legal decree?

A. The Minister of Justice considered it a legal Fuehrer order and a law. Otherwise he would not have stopped the proceedings.

DR. SERVATIUS: I have no further questions.

DR. HELTE: (Counsel for Handloser): Mr. President, through the questions asked by Mr. Hardy the question of number 1 of the decree of 1942 was brought up for the first time. Therefore, I ask that I may be allowed to ask a question on this number 1 which affects the Wehrmacht Medical Service.

THE PRESIDENT: Counsel may propound the question.

EXAMINATION

BY DR. HELTE:

Q. Mr. Lammers, in the creation of the OKW on the 4th of February 1938; that is, when the powers of this OKW were formulated, you were present as chief of the Reich Chancellery?

A. Yes.

Q. Through the decree which has been shown to you of the 28th of July 1942 the organization of the OKW was supplemented by the creation of the

office, chief of the Wehrmacht medical service; is that true?

A. When the chief of the Wehrmacht Medical Service -- when this office was created I do not know.

Q. If you still have the decree before you, you will see it.

A. Here it says: "For the Wehrmacht I commission the medical inspector of the Army as chief of the Wehrmacht Medical Service", and so forth.

Q. Then, through this decree he is empowered and thus the office is created?

Q. Yes, it is possible. I did not draw up this decree. The chief of the OKW and others had this and examined it. I do not know whether the chief of the Wehrmacht Medical Service existed before this or not. I cannot say. I don't know.

Q. Do you know the powers of the chief of the High Command of the Wehrmacht Keitel?

A. Yes.

Q. You testified about that here in the big trial. Will you please tell the Tribunal whether the chief of the High Command of the Wehrmacht, Keitel, was the superior of the commanders-in-chief of the branches of the Wehrmacht?

A. The chief of the High Command of the Wehrmacht, Keitel, was not commander-in-chief of the branches of the Wehrmacht.

Q. Then Keitel could not give orders to Goering or Raeder or Doenitz?

A. They could issue orders in their own fields.

Q. I said Keitel could not give orders to the commanders-in-chief?

A. Keitel could not give any orders to the commanders-in-chief. He could only transmit orders from the Fuehrer to them, but that is true only of the military field for the pure command matters. As far as the chief of the OKW exercised the functions of a minister of war, then things were different.

Q. Handloser was within the OKW the subordinate of Keitel?

A. Now -- what Handloser's military position was, I don't know. I don't know to whom he was subordinate.

Q. Then the internal conditions of the Wehrmacht Medical Service are completely unknown to you? You cannot express any opinion?

A. The organizational plans of the OKW --

Q. I was asking you whether you could express any opinion about the powers which Handloser had, from your own knowledge?

A. No.

DR. HELTE: Thank you. I have no further questions.

DR. FROESCHMANN: Mr. President, Dr. Froeschmann for Viktor Brack. I have one question arising from the examination by the Prosecution. May I ask it?

THE PRESIDENT: Counsel may propound the question.

EXAMINATION

BY DR. FROESCHMANN:

Q Witness, do you remember that at the end of 1940 or the beginning of '41 the Defendant Brack called on you at your office and that you told him about the draft of the law which you have just been discussing and that finally Brack asked you to give him this law?

A I cannot remember it, but I consider it possible that Brack called on me and that we discussed the draft of the law.

Q Witness, can you remember that this draft which was worked out by you was given to Reichsleiter Bouhler or the Fuehrer Chancellory?

A I do not know, but I consider it possible that I gave Brack or Bouhler a draft of this law, but it was a rough draft; I must state that expressly. It left quite a number of questions open.

DR. FROESCHMANN: Mr. President, I have no further questions.

RECROSS EXAMINATION

BY MR. HARDY:

Q Dr. Lammers, will you kindly tell us what are the limits of validity of a Fuehrer Decree?

A From the legal point of view which had prevailed since 1933, the Fuehrer Decree had the same force as a law passed by the Reichsregierung or by the Reichstag.

Q Then, as I understand, your special decrees of the Fuehrer usually contained your name and the name of the particular minister and then duly published in the Reichgesetzblatt, is that right, such as these decrees conferring the authority as General Commissioner for Health and Sanitation on Karl Brandt?

A The Fuehrer Decrees were published in the Reichgesetzblatt on principle if they were to have full force as law, but there were Fuehrer

Decrees which were not published in the Reichgesetzblatt because that did not seem necessary. For example, all the organizational decrees about the occupied territories, none of them were published in the Reichgesetzblatt.

Q Well, those were usually decrees of an administrative nature, were they not?

A Yes, they were administrative organizational decrees.

Q Well, then, Dr. Lammers, if I have understood you correctly, it is your opinion that the Fuehrer letter of 1 September 1939 pertaining to the Euthanasia program was not a valid Fuehrer Decree, is that a correct presumption?

A I have already said that I would have considered a law necessary.

DR. SERVATIUS: Mr. President, the witness is now being asked a legal question which it is the task of the Tribunal to decide. I do not believe that this question is admissible, and I ask that the answer be stricken from the record.

MR. HARDY: I submit, Your Honor, that the witness here is an expert on German law and I put the question to him as to his opinion.

THE PRESIDENT: The objection is overruled. The witness may state his opinion on the question propounded to him.

MR. HARDY: The witness has answered the question, your Honor. I have no further questions to put to this witness.

REDIRECT EXAMINATION

BY DR. SERVATIUS:

Q Witness, you said that there were decrees which were not published. Was the reason for this secrecy?

A That was partially the reason.

Q These were decrees concerning the administration of the occupied territories, is that correct?

A They did not all have to be kept secret.

Q But it was the reason to keep the secret as far as possible.

A Yes, and also the fact that it did not affect the Reich territory.

Q Are there not also other decrees which were kept secret concerning

the conduct of the war?

A It may be that there were such decrees.

Q I am thinking of the Reich defense laws.

A The Reich defense law was not published, and when I was examined here by the big Tribunal last year, I always called it an administrative order which was quite valid and permissible because the measures in the field of Reich defense did not require publication.

Q Then the usual form was deviated from?

A The law was not published.

Q And who ordered this violation of the form?

A The Fuehrer did not want this law published and it was not published.

Q Then I conclude that the Fuehrer had the right to determine deviations from the usual form?

A Yes. In the case of every law he could say, "I do not want it published," and then it was not published. It was only a question of whether it came into existence, as a law. It was certainly not a law if it was not published, a formal law, I understand, only a published law.

Q Witness, I am not speaking of formal laws. I am speaking of a decree. You said that the form could be modified or changed at the discretion of the Fuehrer.

A No, not always. Normally the Fuehrer Decrees were published.

Q Normally, yes, but you yourself mentioned two cases where this form was changed.

A Well, then, the Fuehrer ordered that they should not be published.

Q And he had the power to do that?

A I assume that he did.

DR. SERVATIUS: I have no further questions.

DR. FROESCHMANN: MR. President, I ask that the ruling just made by the Tribunal be reviewed. I asked the witness whether the Fuehrer Decree of the 1st of September, 1939, could be understood as a decree by persons who were not legal experts, that is, the population in general. The Prosecutor objected to this question, and the objection was upheld by the Tribunal. Now

the Prosecution for the same reason has asked the witness about the significance of these decrees. The Prosecution in view of the legal knowledge of the witness considered this question justified. I believe that the Tribunal will have to change its previous ruling, since what has been granted to the Prosecution may also be granted to the Defense. I therefore, make application that the ruling of the Tribunal be changed and that the question and answer which was stricken from the record be restored.

THE PRESIDENT: The question propounded by Counsel for the Defense to the witness sought to elicit an answer as to what some other people thought or might have thought of the law. The question propounded to the witness by the Prosecution was as to the opinion of the witness upon the law which is quite a different matter.

MR. HARDY: I have no further questions to put to this witness.

DR. SERVATIUS: With the permission of the Tribunal, I shall now call the witness, Gutzeit.

THE PRESIDENT: There being no further examination of this witness, the witness, Dr. Lammers, will be excused.

The Marshal will summon the witness, Gutzeit.

KURT GUTZEIT, a witness, took the stand and testified as follows:

JUDGE SEBRING: You will please face the Tribunal, hold up your right hand and be sworn, repeating after me the oath: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. SERVATIUS:

Q Witness, when and where were you born? What is your name?

A Kurt Gutzeit, born on the second of June, 1893.

Q You are a professor medicine?

A Yes.

Q Do you have specialized knowledge in any field of medicine?

A In my medical activity I dealt primarily with stomach and intestinal diseases, liver diseases and infectious diseases.

Q Witness, will you please tell the Tribunal any information that may indicate your specialized knowledge, especially since I am going to examine you on the subject of hepatitis?

A In 1920 I took the medical State examination. Then I was an assistant at the City Hospital in Neu Koeln in Berlin. Then I became assistant at the medical university clinic in Jana. There in 1923 I qualified as a lecturer and received permission to hold lectures. In 1926 I became assistant at the university clinic in Breslau. In Breslau I also obtained permission to hold lectures and was instructor for internal medicine. Internal medicine is my special field. In 1929 I became Professor of Internal Medicine at the University of Breslau. In 1930 I became Chief Physician of the Breslau University Clinic. In 1933 I was entrusted with the direction of the Hospital in Berlin. In 1934 I became a regular Professor for Internal Medicine at the University of Breslau and became director there of the medical university clinic where I had formerly worked as assistant. I held this position until Breslau was evacuated in January, 1945.

Q Witness, during the war you were consulting physician of the Wehrmacht and worked in the Military Medical Academy, is that right?

A Yes.

Q To whom were you subordinate there?

A In the Military Medical Academy I was under the commanding officer of Instruction Group C of the Military Medical Academy. That was Generalarzt Dr. Schrieber. As Consulting Internist, which I was appointed at the beginning of the war when I was drafted into the Wehrmacht, I was under the Army Medical Inspector, Professor Dr. Waldmann.

Q. That information will be sufficient. Witness, did you concern yourself with Hepatitis research?

A. Yes.

Q. Do you know the specialist, the other specialists who worked in the field of Hepatitis research?

A. I know a number of them by name, perhaps all of them.

Q. Will you please mention the more important ones?

A. In the Military Medical Academy was Stabsarzt Doctor Doman, who was also subordinate to the Commanding Officer of the Military Medical Academy. He dealt with Bacteriology; that is, with research into the cause of Hepatitis Epidemica. Also, I know of two assistants from the Leipzig University Clinic, and a third name I do not remember at the moment, were concerned with research into the cause of Jaundice. The two assistants of Professor Dargatz were Sieder and Gartner, who had, at an earlier period, worked on the question of Hepatitis.

Q. Witness, that will be enough, thank you. You spoke of Doctor Doman. Did Doctor Doman have a research assignment?

A. As far as I recall, and I do not believe that I am mistaken, in the course of his work on Hepatitis, Doman received a research assignment.

Q. Do you know from whom the assignment came?

A. The assignment came from the Commission for Epidemica Research of the Reich Research Council, that was Generalarzt Doctor Schreiber.

Q. Did you work with Doctor Doman?

A. In the field of Jaundice it was one field. We worked together in different sectors; and I was interested in the cause of the disease, and the conditions which caused the disease, with the statistics of the disease, the question of how dangerous it was and the consequences. While Doctor Doman was in charge of the bacteriological research, I tried to determine what was the

Cause of this disease. That this disease was contagious had already been shown to be very probable by the clinical research which I had conducted.

Q. Witness, what kind of work did Doctor Doman do? Do you know that?

A. Doctor Doman worked from scratch. He tried by means of animal experiments, from certain secretions of the patient, to cultivate the germ in the animal. It was necessary first of all to find the right animals in which these germs could be cultivated and finally it was possible to transfer the germs to the animal, to infect the animal, that is to produce an animal disease; and now by transferring the germ from one animal to another, to pass on the disease from one animal to another. --- that is called animal culture, animal passage. And, these investigations were carried on later by the cultivation of the germs in the clinic. It was shown that this was not a bacterium as had been assumed in previous years; that the cause of the disease was a sub-microscopic organism which had to be grouped with the virus.

Q. Witness, what did Doctor Doman actually do? How far did his work go?

A. He believed that he had found the cause of Epidemic Jaundice. This was indicated by a number of factors.

Q. Witness, this information is sufficient. Now, did Doctor Grawitz have anything to do with this experiment?

A. When Doctor Doman had cultivated his cultures in the animal and when in the meetings of Medical Societies, this research work of Doctor Doman had been discussed frequently, the wish was expressed by various people that these cultures should be taken over from Doman. Grawitz was interested in Jaundice research because everywhere in Germany, particularly among the troops and in the camps, in refugee camps, concentration camps, in children evacuation

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camps, Jaundice was playing an enormous role in Germany. He also wanted to have cultures from Doman so that he, himself, could have further experiments made. This request of Grawitz,

as well as a similar request from Laagen, another research worker, also concerned with the bacteriology of Jaundice -- Doman refused this request.

Q. What was the reason for this?

A. And, he did this for the following reasons: He did not want to give his cultures away, let them out of his hands, because it was a certain scientific property. The other people who approached him in order to get the cultures had not, or had hardly dealt with the whole question of Jaundice at that time. He wanted to retain control of the use of these cultures, and that is why he refused. Grawitz approached me to induce Doctor Doman to give up some of his cultures. I also took Doctor Doman's point of view.

Q. Witness, did Professor Brandt have anything to do with this Hepatitis research?

A. I did not hear that Brandt carried on this research. He was interested in it as many people, as many doctors were at that time. In view of the urgency of the problem Hepatitis was an important problem because we had no way of preventing it, to reduce the incidents of the disease, and we had no way of combating the disease with any specific drugs.

Q. Now, did Professor Brandt do anything in the way of research; did he appear in the field of research?

A. Not to my knowledge.

Q. Was Doman a subordinate of Professor Brandt?

A. No, I have already said Doman was under the Military Medical Academy, and Professor Brandt had nothing to do with the Academy directly.

Q. Did he not receive an assignment from Brandt directly outside of this?

A. I know nothing about that.

Q. Would you have learned of it?

A. I think so, yes.

Q. Witness, now for the disease itself, is Hepatitis a dangerous disease, dangerous to life?

A. Hepatitis has a mortality figure according to the experience gained in the second world war of less than 0.1. The deaths which occurred were

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generally not due to Jaundice itself, but other diseases caused death,
and Jaundice was only an additional factor.

Q Witness, is the therapy of this disease dangerous?

A No.

Q How is the disease treated?

A I have already said we had no specific therapy. The therapy consisted of rest in bed, warmth, especially the stomach and intestine and liver region, treatment with vitamins, and so forth. Convalescent serums could also be used, that is, serum from people who had recovered from the disease. That serum would be administered. A certain diet was also important in order to protect the liver as much as possible.

Q That is enough. Thank you.

THE PRESIDENT: The Tribunal will now be in recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session. May it please your Honors, defendant Oberheuser has availed herself of the permission granted by this Tribunal to be absent and is absent for the latter part of this afternoon.

THE PRESIDENT: I ask the Secretary General to make a note for the record of the absence of the defendant Oberheuser because of her physical condition, with permission of the Tribunal. Counsel may proceed.

Q Witness, is there any prophylactic measure possible against hepatitis? If such a prophylaxis is given by means of vaccinations, then are vaccinations necessary which can be fatal to the experimental subject?

A Vaccines against hepatitis as far as I know have not been found and have not been introduced yet. These experiments were under way at that time. In my capacity as a clinical man, as far as I can judge this, the development of the vaccines and the experiments in winning these vaccines are not dangerous. The fact that they are not dangerous shows that the spontaneous disease of jaundice in itself is not dangerous. Like all other vaccines, a vaccine which might be developed against hepatitis could have some slight unimportant reactions at the spot where the vaccination is performed.

Q Therefore you consider it impossible that fatalities could occur?

A No, I cannot imagine that.

DR. SERVATIUS: Then I do not have any further questions of the witness.

BY DR. HELTE (for the defendant Handloser):

Q Witness, you are Consultant Internec with the Medical Inspectorate of the Army?

A Yes.

Q First with Professor Waldmann and then afterwards, from the 1st of January 1941 on, with Professor Handloser?

A That is correct.

Q During your activities as Consultant Internec with the Army Medical Inspectorate did you maintain your position as professor and director at Breslau?

A I have maintained my civilian activity at Breslau as far as military duties which had been given to me permitted it. Part of the time I was at the Military Medical Academy in Berlin, at my place of work, and sometimes I was also at the Breslau University Clinic and I have treated the patients which were located there and I have also given lectures.

Q Was this also the case with other consulting physicians?

A That was common practice in the case of almost all consulting physician who worked within the Zone of the Interior.

Q That is with all those who here worked with the Medical Army Inspector etc. That was common practice?

A No. That cannot be said. I was a reserve medical officer and I also had a civilian activity. However, there were also consulting physicians who were active military physicians and they, of course, worked at all times in the military sector.

Q Well, of course, I only referred to the reserve physicians. All those consulting physicians who were only civilian physicians, did they not also exist?

A There were several consulting physicians who were not in uniform at all. I can remember Professor von Zichen in Berlin, the director of the Ear University Clinic, and Professor Lohlein, the director of the Eye Clinic of the University of Berlin.

Q. Is it, therefore, correct to say that the consulting physicians who otherwise had a civilian medical activity also during their conscription as consulting physician carried out a double function?

A. Yes, certainly - in a way.

Q. And that also in their civilian sector they were not subordinated to the Army Medical Inspectorate.

A. In civilian medical activities they were not subordinated to the Medical Inspectorate.

Q. Will you please tell the Tribunal about the official positions of the consulting physicians which played an important organizational role in the case of Handloser?

A. There were consulting physicians in the field Army, within the home Army, and furthermore with the Army Medical Inspectorate and were everywhere where so-called medical officers in charge were located. Furthermore, consulting physicians were used for the support of the physician in charge.

Q. Did these consulting physicians have a certain military rank?

A. That was not the case. A certain grade had been provided for the consulting physicians in question. However, he was only able to reach this grade when they had grown into that position on account of their age. For example, there were consulting physicians with the relatively low military grade of the assistant physicians and there were other consulting physicians who in accordance with their age or their special skills occupied higher military grades. Actually there were all officer grades represented by consulting physicians.

Q. Is it not militarily un-normal to a certain extent?

A. The whole status of consulting physicians from a military point of view was unusual and it was un-normal. The consulting physicians on the basis of their position actually did not fit in within the small military framework. Already for the reason because they were in part also taking care of the civilian work. The consulting physicians for example in contrast to other medical officers did not have any authority and they did not have any disciplinary authority either. Their activity consisted, as is shown by

their name, of consulting others. They actually did not have any office. They did not have any official stamp. They did not have any command authority. So, that actually the position of the consulting physician basically varied from the other persons of the military system. The activity of the consulting physician consisted of several functions. It is set forth in the so-called directives for consulting physicians. It represents part of the directives for the collection of military medical experiences. According to these directives the consulting physicians, first of all, had a consulting function. Secondly, they had a collecting function for the effect of experiences which had accumulated within the Medical Services of the Wehrmacht. And, finally, the function was to teach and to lecture in order to raise the level of training of the medical officers. Point two of this activity, the activity pertaining to the collection of experiences and the effects, is also known as scientific research work.

Q We will refer to this later on. Is it correct that all those consulting physicians who were with the Army and Army groups, who for the most part had a collecting activity, and who at home in particular, those who worked with the Army Medical Inspectorate had a utilizing function at home?

A That may well be said but it is still not quite correct. The consulting physician in the Army and in the Corps Areas had a utilization activity as well as a collection activity.

Q Is it perhaps so that local problems were also utilized at the front and that more extensive problems were utilized at home?

A That is correct.

Q. How do you know that the army medical regulations have contained the fact that the consulting physicians, and this is the technical expression — since the question of the establishment of groups plays a certain role in this trial, I would like to ask you the following question: Does a group of specialist physicians, with all the officers in charge, indicate that they amongst themselves constituted a group? That is, that they subjectively were connected with each other? Or is this only a statement as to the existence of a number of physicians with equal objective marks?

A. The latter is correct.

Q. Was the entirety of the consulting physicians at the front as well as at home amongst themselves, — were they connected with each other?

A. No, in many cases they did not even know each other.

Q. Now do you know that the consulting physicians met at conferences which also played a special part in this trial? Now did the consulting physicians come together by agreement?

A. No. The consulting physicians were ordered and detached and the army medical inspector selected those consulting physicians who were to attend a conference and then they were sent by their direct superiors, the medical officers in charge, to attend these particular meetings.

Q. The prosecution has claimed that these conferences had been typical meetings of conspirators, that is to say, of physicians who met in order to commit war crimes, crimes against humanity, and to plan those crimes and to carry them out. You know of these conferences and the composition of those people who attended. What can you say to the accusation of the prosecution?

A. The conferences served a purpose, as far as I know, to discuss the experiences which had been gained in the various medical fields in the field and at home, which were gained by the individual consulting physicians, and then to put them down in sort of directives. The consulting physicians then again returned to their offices and they then utilized the experience of which they had been informed in these conferences.

lectures were given and they were discussed and then directives were issued as to certain methods of treatment and about the diagnosis of certain diseases and the evaluation of the physical condition with regard to the disease. Then these directives were examined by the army medical inspectorate and they were then sent to the front line units in order to have these directives carried out.

Q. Do you know whether these printed reports and the printed directives were classified as secret?

A. I do not think that most of these reports were classified secret.

Q. None of them were classified secret. I only wanted to ask because I thought you might be able to know. Under consideration of the circumstances as they existed in Germany at that time, do you consider these conferences as a necessary institution?

A. I am of the conviction that they were. It was the best way in order to collect and accumulate the experiences which had been gained at all the various sectors and to discuss them amongst representatives of this special field and perhaps to correct them and then to again pass on these experiences to the front line units.

Q. You have previously stated that discussions took place. Were these discussions subject to any limitations?

A. I do not know of any particular case, only in so far as the meetings had to be concluded within a certain period of time. But I do not know of any military order or of any military prohibition to discuss anything -- I do not know anything about that.

Q. I would like to ask you now to tell us about your special activity as an internist with the army medical inspectorate and to give us a picture as to how you have worked within the circle which was presided over by the Defendant Handloser, what your tasks were and how you carried them out.

A. I had to travel a lot. I had to visit many field hospitals and, of course, with special emphasis on those places where certain important diseases had occurred in large numbers. In this way I myself have

collected experiences.

Q. Did you also have certain orders and assignments? Did you receive them from Professor Kandloser on what special diseases you were to place particular emphasis?

A. These orders and assignments arose from the necessities. Already from the particular sector would come the call to take care of certain diseases because the number of such diseases grew enormously. I only want to mention dysentery, typhus and perhaps malaria, although that was not my field, and epidemic jaundice and, during the last years of the war, the so-called war nephritis. In 1940, when jaundice began to grow more frequently to a terrifying figure, I was given the assignment by the army medical inspector to particularly occupy myself with this disease. In pursuance of this assignment I then went to the various theaters of operations, to Greece, to Russia, to France, and I have personally looked at the various cases at the various hospitals. I think in the course of the time I saw many thousands of such patients. Then I have looked at the causes for the disease and I have personally determined that the reasons which had formerly been considered as being the cause of the disease, for example, food poisoning, climatic influence, bad conditions of drinking water, and other facts, were not the cause of this disease. I saw in the course of time that the disease could be carried from one human being to the next and that this disease belonged in the group of so-called infectious diseases. I further was able to determine that once this disease had been overcome, the person who had overcome it would be protected from it for the rest of his life, so that a person would only be able to be infected with this disease one time during his life. There are only rare exceptions. I was further able to determine that jaundice generally is a harmless disease which does not cause any pain and which causes the patient to be yellow between 2, 4, and 6 weeks and feel very exhausted. It could be further ascertained that no injurious complications would remain after the disease. That was in contrast to the opinion which was previously held, which stated that damages to the liver would remain.

Q May I interrupt you for a minute?

In the speech of General Taylor - in his general speech - in the transcript of 9 December the transcript contains the following sentence on Page 82 of the German version, and the speaker here tells of a letter which Grawitz wrote and in this letter he is alleged to have discussed the over-all importance of a vaccine of extraordinary military value for the treatment of epidemic jaundice and he continues, and I quote: "In several companies there were fatalities up to 70% as a result of epidemic jaundice."

A May I ask you who wrote the letter and to whom it was addressed?

Q It is alleged to have been written by Grawitz to Himmler.

A This statement is in contrast to all experiences. I believe that this is a mistake in printing. It probably should not read 60% fatalities, but it means to say that in some companies 60% of the entire company caught the disease. If any such mortality rate had occurred at any place I believe that it certainly would have come to my knowledge. I consider it completely impossible.

DR. NELTE: Mr. President, I have tried to obtain the English version. However, I was unable to obtain the English version in the General Secretary's office today and I would request the Tribunal to rule if that should be the case what the witness has just said that this word "fatality" in the official version of the German transcript should be changed in such a way as the meaning might be implied. I am told that the word means exemptions and in this case I only want to point out the necessity for a correction of the transcript.

MR. McHANEY: May it please the Tribunal, I take it that General Taylor is permitted to say what he will in his opening statement and it is the function of the Prosecution in this case to try to prove his statements. I don't think it is anything to argue about here. The letter they are talking about is Document No. 010 - I don't have the Exhibit number here now - but it very clearly says "The practical importance of the matter in question for our troops, especially in Southern Russia, results from the fact that this disease has spread so extensively during the past years, both among us in

the Waffen-SS and Police and in the army, that up to 60% casualties for a period of up to six weeks suffered in some companies." It doesn't say that 60% died.

DR. WHITE: Mr. President, if General Taylor had added six weeks to the text then, of course, it would have been clear that a mistake had occurred. It is only due to the fact that in the speech of General Taylor the addition for six weeks had been left out. That was the only reason I suggested a mistake had occurred.

THE PRESIDENT: I would state to Counsel that a copy of the English version will be made available to him. In so far as the statement of General Taylor is concerned, it is clear that some error has been carried through in the record. It is not of any importance, but as stated by Counsel, the opening statement of either the Prosecution or the Defense may contain only what that side of the case expects to prove. It has no binding force as evidence.

BY DR. WHITE:

Q. Witness, Attorney Servatius has previously asked you who occupied himself with this problem of hepatitis epidemica. You had named two officers and I want to gain a correct picture and I want to pass on this picture to the Tribunal. Just how frequently did this disease occur and also how many officers occupied themselves with this problem?

A. May I first of all state that in the years 1940 and 1941 the disease had an enormous increase by numbers. In order to give a picture I would like to name the following numbers which I can still remember. In one single month, I believe it was September 1943, on the Eastern Front alone - within one month there were 160 or 17 thousand new cases. The annual increase in cases of the disease in Germany, including our troops at the front, is estimated at 1½ or 2 millions. As has already been stated in one letter, in some places the disease rate reached 50% to 60% of the workers or the soldiers in the companies. In the year 1940, I, myself, have seen 95 Moroccans in a French field hospital - that was three-fourths of an entire company. In a prisoner of war camp in Pomerania, where English officers were located, within a very short period of time, 50% of all the people that were there had caught

the disease. In two other prisoner of war camps in Greece and Crete, amongst the three or four thousand inmates, 30% to 40% fell ill with the disease. This already indicated that hepatitis is clearly a camp or community disease and that it appeared everywhere where human beings were located in crowded billets and where the general hygienic conditions did not correspond with those which he had in Germany in times of peace. I believe this indicates the importance of the disease alone already because of the enormous casualties on human beings - first of all, for the combat units, and then for the work at home. Of course, it was quite natural that with an epidemic of such giant proportions - I don't believe the world has ever seen anything like it - every physician who had a laboratory tried to find the cause of the bacillus by some means in some way. Many thousands, and perhaps hundreds of thousands of bacteriological investigations of the urine, of the stomach juice, of the intestinal juice, and so on, were carried out practically without the least success, and only men of research, who on the basis of their preliminary knowledge, were able to carry on virus research were more fortunate in this respect. In Germany, at least 5 to 6 officers worked in order to find the cause for the contagious jaundice. They included Dörmann, Haagen; they included the two assistants from Leipzig whom I have already named; then Professor Herzwald from Greifswald, and there are still three or four others whose names I can't recall any more. They all tried to find the virus. If the virus had been found then it would have been possible to first of all treat the disease in accordance with its course, and, secondly, to find a vaccine and a protection which would protect millions of people from this disease. Up to now, the treatment of this epidemic jaundice had only been carried out with symptoms. The medical treatment which was given I have named. Drugs, rest -----

Q Do you know how the treatment for hepatitis was carried out abroad?

A According to the literature which was available to us up to the beginning of the war and according to the literature which we were able to receive from abroad during the war, the foreign countries did not have any other methods of treatment and protection than we had at the beginning of

the war. Even during the war, as far as I know, no specific therapy and no specific protection was developed in connection with the disease. A number of books have been written abroad which indicate that the foreign countries also tried to find the cause for epidemic jaundice and to apparently develop a protection against the disease. I myself can remember a book from the year 1945 contained in the Journal of the American Medical Association by the authors Neefe, Stockton, Knowley and Rhinehart. The book described that within a circle of persons consisting of s-called "conscientious objectors" that the excrements of patients suffering from this disease were mixed with water and then these excrements were given to twenty-five people to drink. They were in three groups with five to a group. Certain chlorides and disinfection drugs were given to them. In the case of two groups such disinfection drugs were not used.

In this freezing or hepatitis epidemics ten people became ill, but not of epidemic jaundice. These people were such an easy case that it could not be counted among the cases of epidemic jaundice; all the others remained healthy. Therefore, that is proof of the fact that the foreign countries likewise occupied themselves for the causes of this disease and they tried to kill the bacteria and excrement and thus protect other people.

Q. But, no fatalities occurred in this way?

A. Well, that had to be expected.

Q. Now, will you please tell the Tribunal about your research and your attempts to find the virus; so far you have not done that. I mean your methods of work.

A. I, myself, have never looked for virus as I am not a bacteriologist. Within the sector of the army, Dohmen tried to cultivate this virus. I have attempted to describe these experiments.

Q. Well, first of all I am interested in your activities, because you as consulting internist of Professor Handloser to a certain extent belonged to his close surroundings and perhaps he may be held responsible for what you might have done and what may not have been permissible. Therefore, I think you should describe to us just how you worked, what were your methods in carrying out your activities in regard to hepatitis research.

A. I have actually described it already.

Q. Will you please repeat it once more briefly.

A. I have made observations on patients in the field hospitals, I have listed the case history, subsequent complications and fatalities and from several hundred thousand of case histories, our young physicians and I have determined what damages occur after hepatitis, what is the average degree of the disease and what fatalities occur, what causes the fatalities and I have determined that hepatitis is contagious. I gained this experience from many examinations and I have further determined that the cause is not of bacteria but of virus.

Q. Have you carried out punctures of livers during your work?

A. Punctures of livers were carried out, but I personally have not carried them out, but punctures of the liver were performed in individual field hospitals. This was a method - a technique, which had been developed by two Danish authorities, Roholm and Iverson. For this puncture of the liver, hepatitis could not be treated, however, it could be determined what damages the liver has sustained and what the chances of cure were with this disease. It could be determined if after the epidemic jaundice the liver was again functioning with its organs or if any damages had remained in the liver. This was important for the prognosis, it is also important for the question should such a human being again be returned to work, could he be allowed to serve, or would he further have to undergo treatment.

Q. Can this puncturing of the liver be considered as an experiment on human beings?

A. The puncturing of the liver is not an experiment, but a method

of examination. It equals the so-called lumbar puncture where the spinal fluid is drained in order to examine the fluid secretions and consequently this puncture could not be considered as dangerous. It is not dangerous in the hands of a person qualified to carry it out. It is not more dangerous than a lumbar puncture would be in the case of a person who is not experienced.

Q. In your position as consulting internist; have you discussed the hepatitis research with Professor Handloser.

A. I have discussed hepatitis quite a lot.

Q. In this respect, did the question ever arise that in the frame of hepatitis research experiments should or would have to be carried out on human beings?

A. As far as I know this question has never been discussed.

Q. But, surely you have also made reports about the progress of your examinations?

A. I have made either written or oral reports when the necessity seemed to arise.

Q. And in that respect, did you on your part ever mention the question of performing experiments on human beings?

A. No, I cannot remember.

Q. Now, have you ever written a letter, which I am going to hand to you? It is a letter dated the 24th of June 1944, to Professor Haagen and in this letter it is stated, "In line with my statements at the joint hepatitis discussions at Breslau, I have tried to make preparations for experiments on human beings". (Experimentum Crucis der Uebertragung Hominen)."

THE PRESIDENT: What is the Document book?

DR. MELTZ: That is the Document book about the hepatitis epidemic and it does not have any number. Yes, it is Document book No. 8, page 11. There you will find the letter which I have just mentioned.

MR. HARDY: It is Exhibit 193.

THE PRESIDENT: The examination of this witness will take how much longer?

DR. NEITS: It will take a little more time. Mr. President, this is one of the most important witnesses for the Defendant Handloser and I have to interrogate him now because he will not be available to me later.

THE PRESIDENT: The witness will be available on Monday morning. The Tribunal will now recess until 9:30 o'clock Monday morning.

(The Tribunal adjourned until 10 February 1947, at 9:30 house)

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CORRECTED COPY.

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 10 February 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Court Room will please find seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America, and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in court.

THE MARSHAL: May it please your Honors, all defendants are present in the Court Room.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court.

The witness Gutzeit is still on the stand and the witness is reminded that he is still under oath.

Counsel may proceed.

DR. SERVATIUS: (Counsel for the Defendant Karl Brandt): May it please the Tribunal, may I first discuss briefly a technical question. On Friday the two witnesses, Reichsminister Lammers and the witness Generalarzt Dr. Gutzeit were led here in handcuffs. I do not know the reasons why Reichsminister Lammers was handcuffed. I do not know if any special reasons existed for that. Professor Gutzeit is a prisoner of war. At present he is in an open cell in prison and is allowed to move around. I believe that it should be avoided to bring a witness here in such a way so that he will not have the feeling of being under pressure and that he perhaps may

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refrain from telling the truth here. I would be very grateful if the Tribunal would make a ruling in this case.

THE PRESIDENT: This is a matter concerning which the Tribunal has no information. Neither is the Tribunal advised as to the status of these witnesses. The Tribunal will inquire into the matter but that is, of course,

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a matter for the security officer in charge to determine.
The Tribunal will inquire as to the situation.

Proceed with the examination of the witness:

KURT GUTZEIT - Resumed

EXAMINATION (Continued)

BY DR. NOLTE: (For the defendant Handloser)

Q. Witness, at the end of the last session I had document book Number 8 handed to you and I had called your attention to the letter of 24 June 1944 which you addressed to Professor Hagen at Strassbourg. This letter is part of correspondence in which the names of Dr. Grawitz, Dr. Dohmen, Generalarzt Schreiber, Professor Hagen and your name is also mentioned in connection with Hepatitis research. Will you please describe to the Tribunal if any and what connections exist between these persons with regard to Hepatitis research and your letter of 29 June 1944.

THE PRESIDENT: Will counsel repeat the number of that document.

DR. NOLTE: I did not understand your question, your Honor.

THE PRESIDENT: Will counsel repeat the number of that document.

DR. NOLTE: It is page 11 of Document Book 8, Document No. NO 142. It is Exhibit 193.

A. This letter of 24 June 1944 which was directed from me to Professor Haagen, it is the result of a Hepatitis conference of all research people who were concerned with this problem in Germany. In June 1944 this Hepatitis conference took place at Breslau. Between six and seven -- I do not know the exact number -- various research men were there who had worked on the Hepatitis experiments on

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animals, and also many other persons interested, physicians. In the course of the conference the experiences which had been collected in the meantime by the individual research men were publicly printed. It became evident that the various research men had reached completely varying results as a result of their experiments on animals. All these research men strove to find the course of Hepatitis through animal experiments. While one part had carried out these experiments and the other part had carried them out with mice, the third group carried

them out with rats and the fourth group carried them out with canaries. They were unable to determine if the bacteria which had been cultivated at different places all represented the same group, or if they included a large variety of different bacteria.

If any human material is vaccinated on animals, or if any animals are vaccinated with material of human beings, and if then the animal becomes sick, then in the beginning it cannot be stated with certainty if the disease of the animal has been caused by the specific bacteria or the disease of the animal has been caused by bacteria which is harmless to human beings.

Then, in the course of the discussion at Breslau which was presided over by Generalarzt Schreiber, Schreiber suggested or ordered that the individual research men and authors should form and follow certain procedures of work, in order to compare the results they had achieved in the course of their experiments on animals. One of these groups consisted of Dohmen, Haagen, myself and several other authors who were very close to Haagen.

The beginning of the letter deals with an assignment of Dohmen to Haagen. This assignment was approved by Generalarzt Haagen as a result of this regrouping, and it was intended that Dohmen, together with Haagen, should compare the results they had achieved in the course of animal experiments in their respective laboratories. That is the first paragraph.

The second paragraph then deals with the fact that during the conference at Breslau I had made a statement which deals with the experiment of crucis hominem. I will have to explain this. In the course of every part of research, medical research, which deals with human beings and which is then continued in the form of experiments on animals, some time the most important part of that research has to be reached; that is, experiments crucis where the results achieved in the course of experiments on animals have to be transferred and applied to the human being because all experiments on animals, in the course of research, can only have results when the results of the experiment on an animal are applied to human beings. This part represents the most important phase of the entire research because all research had to be made of use to the human being; the possibilities of diagnosis for the human being, methods of treatment and preventive measures against diseases.

In Breslau I had a number of medical students. I had won them over to the point of view that the virus which had been cultivated by Dohmen after,

as is likewise stated in the letter, it had been frozen for a period of weeks and months, it was tried to be transferred to a human being and it was to be applied to the students and interneers to whom I had explained the matter previously. Since the virus material was frozen and Dohmen did not have any other material, it had to be assumed that these bacteria had already been killed or that with regard to the virulents they had become so weak already that this vaccination became a true vaccination; that is to say, a preventive measure against this hepatitis. It was the same thing, for example, as the small pos vaccine. Since it was not absolutely certain that the bacteria were completely non-virulent it therefor could not cause the infection. It could have happened that in the course of this vaccination, in one or some other case, the real infection still could have occurred in the form of a very weak and very light case of hepatitis.

I then, in the letter, discuss certain criteria which have to be applied if this virus is applied to human beings. Then a certain danger existed that in the case of jaundice, an infection could be transferred from the vaccinated persons to their neighbors. I therefore had to prepare facilities for isolating them so that the people who had been treated in this way were completely isolated from the outside world and these isolation facilities were not so simple to obtain in Breslau at that time because we were subject to severe air raid regulations and the clinic had to be cleared to some extent so that the individual and separate rooms first of all had to be prepared.

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This experiment was to be carried out during the holidays, during the academic vacation which was between the middle of August and the middle of September. Since I had students and medical students at my disposal I had asked in this letter if Haagen would send some of his virus material to me so that I could carry out this experiment on his material, on Dohmen's material, and on my material. The experiment was never carried out because the students concerned and the medical students concerned were conscripted for military service at the beginning of their vacation and thus were removed from my field of authority. That is the explanation for the contents of this letter.

DR. NELTE: Mr. President, before I continue my examination I would like to point out that the interpreter has changed the statement by Professor Gutzeit. Professor Gutzeit has stated there and he has translated the statement that the virus was transferred to students and interneers. I do not know if the word "interneers" in this connection may not perhaps be misunderstood. The doctoranden are students who live in complete freedom. I request that the transcript be corrected if possible.

Q. (By Dr. Nelte) Professor, you spoke about the Breslau conference--

THE PRESIDENT: The Tribunal understands that medical students are called interns. If the witness referred to these students who were serving their period as interns you can ask the witness if that is what he intended to say.

DR. NELTE: Mr. President, the witness did not say interns, but he said doctoranden. They are persons who were once students and are about to take their medical examination and who have already completed their studies.

Q. (By Dr. Nelte) Witness, you spoke about hepatitis research at the Breslau conference and also the attempt at coordinating the various agencies who occupied themselves with hepatitis research. Did Dr. Dohmen also attend this conference?

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A. Dr. Dohmen attended the conference and presented the results he had achieved in animal experiments; also Professor Haagen who also reported about his experiments on animals and the results he achieved.

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Q. On the basis of the Breslau conference, it is determined then, until that time, experiments were only carried out on animals?

A. Yes, in the course of the Breslau conferences only experiments on animals were discussed.

Q. I now request you to read page 3. It is a letter of the Reich Physician SS Grawitz to the Reichsfuehrer-SS, Himmler. It is Document No. 010 of the Prosecution. That letter states the following: "The work, namely, the research for the reason of Epidemic Jaundice has been so far carried out by Oberstabsarzt Doctor Dohmen within the Research Laboratory of the Army Medical Inspectorate, and with the cooperation of Robert Koch Institute, in conformity with results obtained by other German Scientists. This research has led to the discovery that infectious Jaundice is not caused by bacteria but by a virus. In order to extend our knowledge which to date is based only on inoculation of animals with germs taken from human beings, the research is now necessary, namely, the inoculation of human beings with virus cultures. Cases of death must be anticipated."

I now leave out the next sentence, and I continue: "Eight persons condemned to death -- young if possible, -- are needed in the prison hospital of Concentration Camp Sachsenhausen."

The next letter of the Reichsfuehrer SS, Document No. 011, on page 5 of Document Book No. 8, contains the approval of the Reichsfuehrer SS; that eight criminals condemned to death at Auschwitz should be used for these experiments. It further contains the approval of Reichsfuehrer SS that Doctor Dohmen should carry out these experiments at Sachsenhausen. You will see that the letter is of June 1943. That

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is one year before the Breslau conference. You have testified that Dohmen has reported at Breslau about experiments on animals. Do you know anything about the fact that Doctor Dohmen had worked at the Concentration Camp Sachsenhausen?

A. I have already stated in the course of my last examination that the Reich Physician SS Doctor Grawitz showed a very lively interest in obtaining the cultures from Doctor Dohmen in order to personally carry

out experiments with these cultures on human beings. Doctor Dehnen told me about this thing. Dehnen refused to hand these vaccines over, and I supported him in his refusal because Dehnen did not want to lose control over these cultures and because it appeared a scientific proposition for him and because he had cultivated these cultures. After Dehnen had refused to hand over these cultures Grawitz himself urged him to personally carry out the experiments which he had previously intended to carry out himself, and carry them out at Sachsenhausen. In order to appease Grawitz, and in order to avoid unpleasantness Dehnen decided, after he had been urged several times, to work at Sachsenhausen, but not as Grawitz wanted to -- infect human beings there. He only wanted to work there in order to make things look proper to the outside and in order to appease Grawitz in this manner. Therefore, in the end he carried out sabotage against what Grawitz had wanted. Then we always discussed our respective Hepatitis research from time to time. Doctor Dehnen always reported about his work at Sachsenhausen. He made examinations there on the prisoners who had been placed at his disposal, in the same way as this was also carried out in field hospitals and hospitals, in the case of people who are suspected of having jaundice and those who have had it already. Then he also carried out preventative infections of the liver by use of vitamins, which is also a common medical practice, but he never infected human beings as far as I know.

Q I want to repeat. Doctor Dehnen, when he reported at Breslau, did not refer to these experiments and did not press them?

A No.

Q As far as you know about this work at Sachsenhausen, did you ever discuss this work with Professor Handloser?

A No, I never did that.

Q You have stated that Doctor Dehnen in the year 1944 was assigned to Strassburg by Schreiber. Do you know anything about the results of this journey or the discussion with Kaagen?

A As far as I know, Doctor Dehnen carried out some dying

experiments with virus at the laboratory together with Doctor Hirsch. He only spent a few days there. I do not know anything about any far-reaching results of this collaboration.

Q After the journey had been completed, was there anything mentioned about the fact that he had been at Hatzweiler?

A No, I did not know anything about it.

Q Do you know where Hatzweiler is?

A I did not know anything about it previously. I did not even know the name. I have now discovered that apparently it was a concentration camp. I, myself, have never been at Hatzweiler. I do not know it. I have never visited any concentration camps at all, and I do not know anything about the composition of the concentration camps or anything about their organization. I have never visited any concentration camps.

Q At the beginning of your examination, you have also mentioned Typhus as a specifically and particularly serious disease, as far as the Army was concerned. Did you discuss the problem of Typhus research or Typhus vaccine with Professor Hantloser at the end of 1941?

A Generally I discussed the treatment of Typhus with Professor Hantloser by diagnosis.

Q. Can this be explained by the fact that in 1941 for the army and the medical agencies of the army, for all these agencies, typhus was only a question of medical treatment?

A. In 1941 the research institute for typhus had already been established at Dachau; and there the well-known lice vaccine which had previously been introduced was manufactured. That was the Weigel vaccine. It had proved itself; and as far as it could be produced in larger amounts, the troops who had become endangered were vaccinated with it. Therefore, the typhus vaccination was nothing new for the army; and when typhus made its appearance for the first time, only a certain period of time passed until technically sufficient vaccine was produced in order to inoculate all the troops in all the units.

Q. Did you at any time receive an order to carry out research with regard to typhus?

A. No.

Q. Did Prof. Handloser ever make an expression towards you that it was necessary in the field of typhus research to make use of experiments on human beings?

A. No.

Q. It has been stated here that on the 21st of December, 1941, a conference is alleged to have taken place which was attended by Prof. Gildemeister, Prof. Reiter, Dr. Conti, Prof. Mrugowsky, Dr. Brandt, and still others; and the prosecution claims that in the course of this conference Prof. Handloser in his capacity as representative of the Wehrmacht suggested then to carry out typhus research through experiments on human beings and to continue them in this certain way by infecting human beings to bring typhus research to completely different fields than had previously been done in accordance with the medical profession and science.

I am now asking you, if Prof. Handloser had actually considered this problem in December, 1941, would he have discussed it with you?

A. I assume that I would have found out something about it. Actually, however, I did not hear anything about these things.

Q. How long were you consulting internist with Prof. Handloser?

A. During the entire time when Prof. Handloser was the army medical inspector.

Q. That is, until the 1st of September, 1944?

A. Yes.

Q. Then why did you not have any more official contact with him afterwards?

A. Because I was consultant to the army medical inspector and Prof. Handloser from that period of time on -- and I do not know the exact date -- became chief of the army medical service.

Q. Does this show that the chief of the medical service in that capacity did not have any consulting physicians?

A. The chief of the medical service did not have any consulting physicians.

Q. Was he able to issue any direct orders to the consulting physicians of the Wehrmacht branches?

A. He was not able to do that directly as far as I know. I had not received any direct orders from him as chief of the medical service.

Q. Your contact with Professor Handloser makes it possible for you to judge him as a physician, as a soldier, and as a human being. In this trial it will be important for Professor Handloser that a picture of his personality be gained. For this reason I would ask you to describe to the High Tribunal from your own personal knowledge how Professor Handloser appeared to you and to others as a soldier, as a physician, and as a human being.

A. In my opinion, judging Professor Handloser as a clinical man, he was not only a soldier. I cannot judge the qualifications of a soldier because I have always worked in civilian life and because I have not been an active soldier, but I have always belonged to the reserve. I can only judge his particular medical attitude. He did not only personally take care of the organization but I have personally seen and have always heard that in many instances he took personal care of the sick and wounded. That is something which was not always done by all medical officers. As a man I believe that Professor Handloser had a very noble personality and that he had a flawless character.

Q. Now, my final question. From your knowledge of the personality of Professor Handloser are you able to say whether Professor Handloser in his orders and directions had followed any other rules than the acknowledged rules of medical ethics?

A. I have never personally seen any indications of the fact that Professor Handloser had violated the rules of medical science or that he had issued orders which would lead to it.

Q. I thank you very much.

DR. NELTE: I do not have any further questions.

EXAMINATION

BY JUDGE SERRING:

Q. Witness, how many times during the course of your professional career have you actually come into personal contact with Professor Handloser?

A. At the beginning of the war I had been conscripted for military service. I was conscripted from my civilian activity. I was immediately assigned

as consulting physician of the army medical inspectorate. That was without any activity on my part. My first chief was Generaloberstabsarzt Professor Waldmann. Waldmann became ill and was retired. He was succeeded by Professor Handloser. From that moment on I was subordinated to Professor Handloser as his consulting physician. During the time when Professor Handloser was chief of the army medical inspectorate I was also at all times his consulting internist.

Q. That continued over how long a course of time?

A. I do not completely remember the exact dates. I believe from December 1940 on. I think that is the date when Professor Handloser became army medical inspector.

DR. NELTE: May I perhaps say that in December he became deputy of Professor Waldmann and in January 1941 became medical inspector.

A. Until his final appointment to the medical service. As far as I know, that was on the 1st of September, 1944.

BY JUDGE SEERINO:

Q That was a period of more than three years, is that true?

A Yes sir.

Q And during that time how often did you actually come in contact with Professor Handloser, either in a social personal way or in a professional way where problems, professional medical problems, would be discussed between you, as often as once a week for example?

A There were no regular meetings, it was done in such a way that whenever a medical necessity appeared within the Army, Professor Handloser called me and then in accordance with my duties, asked me about those things, but it was also vice-versa, that when I, on my trips or otherwise, in field hospitals, or by means of reports from other consulting physicians, if I had to report something of importance to him then I went to see him or I submitted a report in writing. There was no procedure which called for regular meetings once a week. Sometimes several weeks passed. Therefore, the meetings and the discussions or conferences took place from case to case.

DR. NEUTE: May I ask a question in order to complete the subject?

BY DR. NEUTE:

Q Do you know what functions Professor Handloser had?

A First of all he was Army Medical Inspectorate and at the same time he connected with this the so-called Chief Medical Officer of the Army.

Q In order to explain and clarify the previous question, every time that Professor Handloser visited Berlin was it the procedure that he would discuss the most important questions with you by asking you to report to him or that you went to see him when you knew that he was in Berlin?

A Not every time when Professor Handloser was in Berlin was I called to see him. I have already stated that the discussions took place from case to case. If he had something important he called me. If I happened to be in Berlin I went to see him. When I was in my clinic in Breslau I would receive a telephone call telling me to come to see him at Berlin, and whenever I had something of importance to discuss with him, then when Professor Handloser was not at Berlin I would report this to the Chief of the I G with the request to pass it on to Generalarzt Dr. Schreiber, and when he had sufficient time for

as I would go to see him personally.

Q May I phrase the question in conclusion as follows: In the course of the acquaintance which you had with him, in the course of the three years, was it sufficient that you can judge his character and his understanding of his duties, and that you can give a clear picture of them?

A I believe that as far as the fields were concerned in which I dealt or negotiated with him, I can make myself a clear picture of his personality as a whole. It was three years, which is a long period too, and I cannot state now in numbers just how many times I saw him, but in the course of the three years, of course, I had frequent opportunity to have such discussions with him.

DR. NELTE: I do not have any further questions.

ATTORNEY FLEMING: (Counsel for the Defendant Mrugowsky)

BY DR. FLEMING:

Q Professor, on 23 January you gave me an affidavit. Its contents have already been clarified for the most part by the questions which have been asked up until now. I only want to ask you the following: Do you know the defendant, Mrugowsky?

A I do not know Mrugowsky very closely. In the course of the war I have seen him at the conference of the consulting physicians and I have also talked with him there but we do not know each other very closely.

Q In the course of your hepatitis work was the name Mrugowsky ever mentioned?

A No.

Q Did you hear in any way that he occupied himself with hepatitis research?

A I do not know that. It never became known to me.

Q Do you believe that you would still remember if the name had been mentioned in that connection?

A I believe, yes.

Q And I still have one more question. Attorney Nelte has just told you that the Prosecution claims that on the 29th of September, 1941, a conference had taken place, at which, amongst others, Handloser and Mrugowsky had been present, and where the experiments on human beings with typhus were decided on.

You have already been questioned as to your relationship to Dr. Handloser. Do you believe that Professor Handloser would have discussed the typhus question with you, and particularly the question if you considered it appropriate to carry out experiments on human beings, after such a discussion had taken place on the 29 December 1941?

A I believe that I have already answered this question that I would personally believe that if experiments on human beings with typhus had been planned, that Professor Handloser would have told me something about it and that if he said anything I have already stated I have not heard anything about it.

DR. FLEMING: Thank you, I have no further questions.

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BY DR. FRITZ (defense counsel for the defendant Rose):

Q. Professor, what did Dohmen do in his civilian capacity, in what institute, and where else did he work before he was conscripted?

A. He was assistant of the Hamburg Clinic for Internal Diseases.

Q. Can you tell me the reason that he was especially selected for hepatitis research?

A. At some earlier period Dohmen apparently had been assistant of Gildemeister or worked with him. I personally do not know that exactly. However, I believe that was the case. I believe that at the time Dohmen was recommended by Gildemeister as somebody who was acquainted with hepatitis research and I have stated earlier that in the course of the clinic work with regard to hepatitis, the necessity had resulted to appoint a physician who was acquainted with virus research in order to find the cause for the jaundice.

Q. Professor, can you tell me when Dr. Dohmen was assigned to the Robert Koch Institute?

A. Apparently that was in the year 1942.

Q. And do you know how long he was assigned there?

A. Until the destruction of the Robert Koch Institute, until the loss of the cultures which had been cultivated by Dohmen. I believe this was in the fall of 1943. I do not know the exact month any more.

Q. And with whom did Dr. Dohmen collaborate in the Robert Koch Institute?

A. He worked in the laboratory of Professor Gildemeister and was advised and supported by Professor Gildemeister.

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meister in his work.

Q. Do you know if Dr. Dohmen had anything to do with Professor Rose?

A. I have never heard anything of it. I do not know.

Q. Do you know after the destruction of the Robert Koch Institute, do you know where Dohmen continued his hepatitis research?

A. After the destruction of the Robert Koch Institute Dr. Dohmen went to Giessen by order of the Commander of Army Group G, to whom he was subordinated, and in Giessen he worked in a laboratory which had been

placed at his disposal there by the German University.

Q Can you tell me, Professor, when and where and why Dr. Dehnert lost his hepatitis cultures?

A In trying to find the cause for hepatitis on animals Dr. Dehnert in the course of the experiments was very unfortunate. Already in the year 1942 he frequently had had difficulties by animal epidemics and plagues and in the year 1943 he suffered from bombing attacks and then he always lost his material and his cultures. And then when he finally went to Giessen it was again attempted to transfer human material on animals by puncturing livers of patients suffering from jaundice and these cultures did not have any effect on the animals because apparently the available animals were unsuited and there were also difficulties in procuring the animals. Various races of mice reacted differently to these vaccination experiments. These are the apparent reasons: When Giessen was completely destroyed through air attacks again all material which then existed was destroyed.

Q Do you remember the incident between Professor Hogen and Dr. Dehnert which was caused by the fact that Dr. Dehnert refused to hand over his cultures?

A At the conference in May 1943 Dehnert spoke about his experiments on animals and his cultivation of the bacteria and Hogen also attended this conference. After the conference Hogen ordered Dehnert to hand over his cultures to him so that he likewise could carry out such experiments. At the time Dehnert felt toward Hogen exactly the same way toward Grawitz. He refused to turn over the cultures to him in order to avoid putting the material into hands which would be removed from his control.

MR. HARDY: If the Tribunal please, this same ground has been covered by the witness when being questioned by Dr. Kalte and I can't see any reason for further questioning along these lines.

THE PRESIDENT: Since the Tribunal considers that the position of Prosecution is correct that the witness has testified at considerable length these matters, the Tribunal

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does not desire to limit your cross examination but it should be confined to any material which is not already in the record.

BY DR. FRITZ:

Q. Professor, did you ever collaborate with the defendant Rose on hepatitis?

A. No.

Q. As far as you know did Professor Rose take any active part in hepatitis research?

A. I did not hear anything about it.

Q. Do you know that Professor Rose did not participate at the hepatitis conference at Breslau?

A. I believe that he was not there.

Q. At that Breslau conference all the leading hepatitis research men had been invited of the Wehrmacht and who from the members of the Luftwaffe can you remember attended?

A. I already stated that Hogen was there. Then Kolo attended, also Buschner. And there was the pathologist Lester there because it was also a pathologist's meeting. There were certainly other members of the Luftwaffe but I do not know the exact names. If I would be asked for certain names I might be able to give you more information about them.

Q. That Professor Rose, as a scientist and member of the Robert Koch Institute, had to be interested in the results of your hepatitis research, just like for any other progress in the fields of infectious disease, is of course natural. Now, I want to ask you, Professor, in excess of that would you consider Professor Rose as a specialist for hepatitis and would you mention his name if you mentioned all the German hepatitis specialists?

A. No, I would not consider him a hepatitis scientist.

Q. Have you ever heard a lecture by Professor Rose about hepatitis?

A. No.

Q. Have you ever seen any scientific article in medical literature on the subject by Professor Rose?

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A. No.

Q. Have you ever heard him speak in any discussion during any scientific meeting about the subject of hepatitis?

A. No, I can't recall such an occasion.

Q. Do you know anything about human experiments on hepatitis by Professors Hogen and Kolb?

A. I do not know anything about the execution of such experiments.

Q. You have previously stated, Professor, about the intended human experiments which were planned at Breslau. What else do you know about hepatitis experiments on human beings?

A. I know only of two experiments. One was carried out in 1942 by assistants of my clinic. In these experiments it was discovered for the first time that with the duodenal liquid of the patients and by placing it in the stomachs of the people that this disease could be caused. That was the basic experiment in order to show that hepatitis can be transferred through duodenal liquid and that it is infectious when transferred from one human being to another. This experiment was carried out by assistants and students of my clinic as a uniform group. The second experiment was carried out on me personally. I experimented on myself. That was at the beginning of 1943. I bearly infected myself with the bacteria cultivated by Dohman because I wanted to be able to judge whether the bacteria cultivated by Dohman were the actual cause of hepatitis. The result was a very light case of the disease on myself and that the whites of my eyes became slightly yellow. In that respect I was certain that the cultures were the actual cause of hepatitis. From any other side I did not hear about such experiments on human beings, whether such assistant experiments or personal experiments were carried out. In any case I do not know anything about it.

Q. I have no further questions.

THE PRESIDENT: The Tribunal will now be in recess.

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Is there any further cross-examination of this witness by defense counsel?

BY DR. BOEHM (Counsel for defendant Poppendick)

Q I'm going to submit to the witness a publication regarding the typh treatment with acridin by Dr. Ding. This is Document No. 582, Exhibit No. 28.

JUDGE SEDRING: What book, please?

DR. BOEHM: Exhibit No. 286. It was not in any document book. It was presented singly.

BY DR. BOEHM:

Q Professor, did you have sufficient time to investigate the acridin work by Ding so that you can state your expert opinion before the Tribunal today?

A I read it, yes.

Q Among others, you particularly dealt with questions of infectious diseases?

A Yes, that's right.

Q Is it correct to say that you wrote a book regarding infectious diseases where in particular you worked on experiences made during the last war?

A Yes.

Q As a consulting physician in the Army Inspectorate you must have gained experience in the field of typhus research, in particular, regarding the circumstances which deal with the originating of epidemics.

A Yes, I dealt with that question.

Q The document which was submitted to you bears the stamp "No object from a medical point of view". There is a signature, i.e. Poppendick - by order of Poppendick, is that correct?

A Yes.

Q Well, is that thesis a typical report as it is made to a superior agency or does it have the form of a publication in a professional periodic

A It has the form of a publication in a professional periodical.

Q How do you see that?

A I can see this by the letter head - by the head of this work. Furthermore, I can see it because of the scientific discussion which deals with use of other authors regarding the same field. That is at the end of this thesis.

Q Was it customary with the army to approve scientific works in that form?

A With the army it was customary to establish the medical harmlessness of the work.

Q Now, as an expert in typhus research, if one looks through this work does one have to come to the conclusion that one is here concerned with intentional artificial infection of human beings as it is described in this work?

A One does not have to come to that conclusion of necessity. The only passage which may perhaps indicate that is List No. 1 where the treatment there used is laid down in the case of two patients where it was started on the first and third days of the incubation period. That is only possible where one is concerned with a small epidemic which is carefully observed and where one can exercise the daily control regarding the lice with reference to all the affected persons and where a louse was still found in the person of some human being who appears to be healthy. If therapy is started on that day, then you can find out on the first or second incubation day and you can start treatment. For instance, in the case of transport where delousing has taken place - that is, carefully delousing - and where these people arrived at their destination with lice, you can, during a typhus period, assume that the infection took place on the day the journey took place. That is to say, in the case of well-observed epidemics it is possible that treatment starts on the first or second incubation day but there are only very few such occasions.

Q Thank you, that is sufficient.

According to your knowledge is Poppendick an expert in the field of typhus research?

A Poppendick is a physician dealing with internal diseases - internal medicine. I don't know that he specially dealt with typhus cases.

Q Now, if you just examine this thesis as a non-expert and if you read it through could you come to a conclusion or suspicion that criminal experiments are being described in that thesis?

A I don't think that is possible.

Q Thank you, I have no further question.

A Because in that thesis you can, at no passage, find that there is any artificial epidemic in question. It says here "typhus research with acridin" and then it further says "within the framework of an epidemic".

DR. BOEHM: Thank you, I have no further question.

BY DR. STEINBAUER (Counsel for the Defendant WILHELM BEIGLEBOCK):

Q. Witness, last week you shortly mentioned liver punctions. In a publication of the First University in Vienna, I read the following sentence: "The Liver punctions, when local anesthetic is used, is painless and hardly interferes with the patient's health." I ask you, do you share that opinion?

A. Yes, that is also my opinion.

Q. Do you know that especially at the Clinic Eppinger in Vienna this method was worked upon a great deal?

A. In the Clinic of Eppinger, as they became known, liver punctions were often used.

Q. Do you know from literature or personally, the Defendant Dr. Beiglbock?

A. I know him personally, and because of attending scientific meetings.

Q. Would you say that he scientifically exercised this method and that he is fully acquainted with it?

A. I think that everybody can learn that method who is skillful manually.

Q. Is it correct that the Danish scientists, Evensen and Roholm, performed this liver puncture on even quite healthy human-beings?

A. I do not remember that exactly. I believe, however, that pictures of quite normal livers are contained in the monography which has appeared on that subject. But I do not remember it quite well. I do not remember whether liver punctures were performed on perfectly healthy human-beings.

Q. Thank you. I have no further questions.

THE PRESIDENT: Is there any further cross examination of this witness by any of the defense counsel? There being none, the Prosecution may cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q. Witness, you have stated in direct examination that you were consulting physician with the Medical Inspectorate of the Army and that Handloser held that position as Medical Inspector from January 1941 to September 1944. Now the Tribunal has asked you how many times did you consult with Handloser. I ask you again, how many times did you physically contact Handloser in the course of your duties as a consulting physician to him?

A. I have already said that I cannot say that I spoke to him once a week; sometimes it occurred once in 3 weeks, other times once in 4 weeks, and sometimes I saw him one week after the other. That is, a physical contact, as you said.

Q. Well, the, witness, would you say that you saw Handloser 10 times a year?

A. Yes, I could quite say that.

Q. More or less? Witness, I am simply asking you how many times do you estimate that you saw Handloser in the course of a year - 5, 10, 15, or 20 times? That isn't too difficult to remember, is it?

A. I should say that I met him 10 times a year, but it may well have been 13 or 14 or 15 times; I am sure that it differed in the individual years.

Q. Thank you. You were also attached to the Military Medical Academy as I understand it?

A. Yes.

Q. You have stated that Generalarzt Dr. Schreiber was the commanding officer of the Military Medical Academy and that you were subordinate to him in that connection. Is that correct?

A. Yes. He was not the commander of the Military Medical Academy but the commander of the so-called Training Group C of the Military Medical Academy which is a part of it.

Q. Now the Military Medical Academy was under the control of the Medical Inspector of the Army, was it not?

A. The Training Group C was subordinated to the Military Medical Academy and its commander; and the Military Medical Academy and with it this Training Group C, was subordinated to the Army Medical Inspectorate. The head of the Army Medical Inspectorate was the Army Medical Inspector.

Q. Hence, Dr. Schreiber, as chief of this department in the Military Medical Academy, was, in fact, a subordinate of the Medical Inspector, Handloser, during the time Handloser held that position as Medical Inspector, is that correct?

A. Yes. In the final analysis, all medical officers were subordinates of the highest medical officer; that, of course, also includes Generalarzt Schreiber; as the commander of the so-called Training Group C he was the subordinate of the Army Medical Inspector.

Q. Now, witness, in addition to the duties you have outlined in the direct examination, did you ever receive questions in scientific research from the Reich Research Council?

A. Would you please repeat that question more precisely? I did not quite understand.

Q. Did you ever receive requests or questions from the Reich Research Council on matters of scientific research?

A. On occasions I was asked by the Reich Research Council on numerous medical matters; this was mostly done by writing and I then defined my position to the questions by writing. These questions concerned numerous fields. For instance, I remember one question about a proposed treatment of typhus. It was intended to treat it with certain bathing processes -- warm bathing processes. There were also other questions I had to deal with -- questions concerning certain treatment of diseases, whether a certain method of treatment proposed by some one had any value according to my opinion so that it could generally be exploited and used. The selection of certain drugs was dealt with by me by request of the

Reich Research Council.

Q. Now these various research tasks that were assigned to you-- were they assigned to you by Professor Dr. Mostack of the Reich Research Council?

A. Research assignments were not received by me from the Reich Research Council. These were merely inquiries about proposals which may have come from any side and on the basis of my experiences I had to state my opinion. I myself, however, did not receive any certain research assignments. However, this was not the case in the case of Hepatitis. During the Hepatitis work, after having worked on that for a long time, 1943 or 1944, I don't remember exactly, the Reich Research Council gave me such an assignment. I did not ask for that assignment. It was merely handed to me.

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These were inquiries. I said nothing about any certain assignments. At least I do not remember anything about them. I just said they were inquiries about proposals which came from one side and it was my duty to make statements about their execution. I gave you an instance before. Any medical officer might have suggested a certain form of typhus treatment. I subsequently was asked whether it was also my opinion that typhus treatment should be used generally; experiences were to be collected on that point. that is just an example. These also emanated from Professor Rostock.

Q. Regarding yellow jaundice, what are the dangers and possible complications of Hepatitis?

A. I already stated the danger of Hepatitis during my previous examination. With reference to the life of the patient, the danger is very small. The figures show in literatures about so-called mortality in the case of jaundice is less than one thousand. Jaundice in itself, with reference to the mortality figure is a harmless disease. Jaundice, on the other hand, cannot be avoided through any safeguard whatever its nature may be. There is no possibility of preventing the infection and extension of that disease. The average length of illness is usually four to eight weeks. There are very easy cases where patients are restored to health within a few days and there are more severe cases where patients are yellow for weeks and sometimes months. During the war we learned after-effects and complications of this disease are very very rare. Patients usually become ill, they feel badly. Generally, they have no pain, but after a certain period of time, as I said, six to eight weeks, they are completely restored to health.

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Q. Does it not often cause severe damage to the liver?

A. That was a belief which was held before the war.

Such cases occurred before the war sporadically, that is, singly. In the case of these single diseases, there are certainly a number of cases of infectious jaundice. In the same way, however, there are quite a number of cases which have nothing whatsoever to do with the infectious jaundice. These are liver afflictions of another kind which have

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existed from the very beginning and which may have been caused by food poisoning or other poisons. During the war we learned that the infectious disease leaves no damage to the liver. That is the result of a number of liver punctured as they were performed in a number of cases. They were performed in order to be able to tell the patient concerned, with certainty, that the liver damage during the jaundice, is completely over.

We physicians and also pathologists were very surprised at the changes of the liver as they occurred during the jaundice period. They completely disappear within a relatively short period of time. Pictures of the liver after jaundice has disappeared do not at all differ from the pictures of a normal liver.

Q. What are the causes and conditions of death in Hepatitis?

A. In most cases, death during jaundice is not caused by jaundice itself, but by other diseases. For instance, if a person is heavily wounded, and then a so-called sepsis develops, and then he becomes infected with Jaundice; the person concerned will die because of sepsis. In those cases where jaundice is another severe illness, one can always judge them as jaundice death cases. That is how it is done in literature. In reality, they are not dead because of jaundice unless one wants to put it that way. It is merely an optical science. A death case merely is something which had never been observed with certainty.

Q. Doctor, is there any difference between Hepatitis as it occurs in epidemics and sporadically and that produced by inoculation?

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A. May I repeat once more, did you ask me whether there was a difference between spontaneous disease and a disease caused by inoculation?

Q. That is correct.

A. Is that correct?

Q. Yes. Is there any difference?

A. According to my opinion, there can be no difference. A difference cannot be expected.

If the cause of jaundice against which I am inoculating is that very cause, the disease must be the same as the spontaneous disease. However I have to add that there is a difference between an infection and an inoculation. You inoculate by means of a vaccine; that is to say, a dead excitor, a dead infector. During these inoculations, diseases of jaundice are not to be expected at all. If, however, the virulent cause is being bred as in the case of animals and if it then infected into a human being, then the well-known jaundice comes about as it is known in its spontaneous cause.

Q. Now witness, you have told during the course of the war, you did not know of a single case where a patient died from jaundice. How do you justify the fact from the document Dr. Nelte exhibited to you this morning? That is the letter from Grawitz to Himmler requesting permission to conduct these hepatitis experiments on human beings. These inoculations were to be made from virus cultures, and death cases were to be anticipated?

A. I can only explain it by thinking that Grawitz, himself, was not sufficiently informed about jaundice, its cause and its danger. Grawitz was not a specialist in jaundice matters because as Reichsarzt AA, he was not in touch with practical medicine.

Q. Now, witness, is there any difference between hepatitis of man and that of experimental animals?

A. The differences are great. The animal, for instance-- well, let me start again. The animal experiments, the animal does not receive jaundice at all, does not contract it at all. The yellow coloring never appears in the case of the animal. However, changes of the liver are noticeable in the case of the animal which was infected, and they are very similar as in the case of a man who is infected with the same virus. Then there are further differences. I already said that yellow fever never has a fatal result, whereas in the case of animals, at any rate a part of them, die as a result of this disease. That is true as in the case of other comparisons between animal experiments and human experiments, namely that the external appearance of the disease in the case of man or animal by using the same virus can be completely different and in addition the danger of the animal disease and the human disease can differ completely, although one is concerned with the very same virus.

Q. Is hepatitis more dangerous in overworked or undernourished people?

A. Speaking on the whole the figures of the disease and its danger in the case of well nourished or undernourished people contracting jaundice are the same. When jaundice occurs as a complication of another severe infectious disease the cause of the original disease by virtue of the added jaundice is not influenced whatsoever. That is contrary, for instance, to other infectious diseases. I shall give you one example, typhus has a very definite course and we know mortality figures in the case of typhus. Now, if within such a typhus epidemic, and that is something that was frequently observed during the War, a jaundice epidemic comes into appearance in addition, so that people afflicted with typhus at the same time they are afflicted with jaundice then the typical course of the typhus illness

is not at all changed by this addition of jaundice and no larger amount of mortality figures can be observed during this typhus epidemic. In the case of other infectious diseases this is basically different, for instance if typhus diseased persons contract diphtheria, which happens on numerous occasions, then this additional contraction of diphtheria, this additional infection practically means a death sentence for the person concerned, whereas in the case of jaundice it is entirely different.

Q. What special facilities are necessary to treat hepatitis adequately?

A. The methods of the treatment of hepatitis can only be done on the basis of symptoms. I already mentioned earlier that there is a specific kind of therapy, -- that there is no specific kind of therapy, such as serum therapy. Many persons inflicted with hepatitis who are not severely ill received no treatment whatsoever, and in parts continued their civilian and military duties. In other cases they were told to go to bed and received a light diet. Sometimes there was some warm treatment. On the whole treatment of drugs showed no particular success in the case of jaundice.

Q. Considering the physical conditions of concentration camp inmates, and the hygienic conditions of concentration camp hospitals, wouldn't it have been more dangerous to perform hepatitis experiments on concentration camp inmates than on well nourished volunteers?

A. In all the camps, and that included concentration camps, jaundice illnesses, spontaneous illnesses occurred to a large extent. I mentioned the jaundice epidemic, for instance, in prisoner of war camps. These were persons with a very much deteriorated constitution. They had endured hard battles and they had a very bad nourishment, and even in the case of these spontaneous epidemics within the camps a higher mortality figure than the one already mentioned, or after

effects which had complications of jaundice did not become known.
In the case of an entire division in Russia, which was sent from
the Crimea to Northern

Russia, I personally saw high disease rates of human beings who had deteriorated in health, who were undernourished, overworked and exhausted, and where the cause of jaundice was secondly the same as in the case of other human beings with good conditions of nourishment and who lived under good conditions.

Q. Are states of mental confusion or delirium ever associated with hepatitis?

A. I personally didn't see it.

Q. Are any lasting or disappearing neurological changes ever associated with liver disease, and if so are they also associated with cases of hepatitis, especially in individuals who are undernourished or deficient in vitamins?

A. May I ask once more, what kind of a condition are you suggesting?

Q. I will repeat my question. Are any lasting or disappearing neurological changes ever associated with a liver disease, and if so are they also associated with cases of hepatitis, but especially in individuals who are undernourished and deficient in vitamins?

A. I know of no disease or nerve degenerations, and that is probably something that you mean by the neurological conditions, rather I didn't know of any such cases in dealing with hepatitis, and they are never described in literature. No matter whether the people concerned are healthy or strong, or whether in any way undernourished, and whether there is a deficiency in vitamins, we only know one disease that is a liver disease during the course of which at the same time neurological symptoms appear. This disease firstly is very rare, and secondly has nothing at all to do with hepatitis epidemica. We are not concerned with an infectious disease, but we are concerned with a primary simultaneous degeneration of liver tissues, and brain nerve tissues. For the most part these diseases are mostly hereditary.

Q. You have compared the liver punctures with the lumbar spinal

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and the sub-occipital puncture; isn't it true that with the various kinds of spinal puncture you only remove the fluid which surrounds the spinal cord or brain, while with the liver puncture you actually enter the organ itself; isn't that dangerous?

A. There are two cases here. In one case you take away some juice where tissues are available at the same time. That is in the so-called spine puncture. In the other case you only take tissues away. Now, you could compare the liver puncture with the so-called gland puncture. In that case organs are being punctured in order to take out certain small parts of tissue. Both kinds of punctures are considered harmless, as the gland puncture is today used in hospitals and clinics for diagnostical reasons.

Q Didn't you, yourself, once describe jaundice as a serious sickness owing to the damage done to the liver?

A As long as jaundice exists there certainly is a damage of the liver to be noted. But, as I said, that these damages necessarily are restored to the proper order. During the first period when we saw jaundice epidemics appear to a greater extent we occasionally received reports about patients who showed changes in their liver for a longer period than was customary. In the case of those patients, however, we were not concerned with damages which resulted from jaundice but there are certain jaundice cases, as I stated before, which have nothing at all to do with infectious jaundice. Jaundice is an optical symptom which is valid for quite a number of jaundice illnesses and only a part of the jaundice illnesses are in compliance with the so-called infectious diseases.

Q You have stated, doctor, that the disease lasted from four to eight weeks. Now, is salvarsan used for the treatment of jaundice?

A Salvarsan was not used for infectious jaundice but there is a kind of jaundice which is a symptom of the so-called syphilis and furthermore there is a jaundice which originates as a result of the salvarsan treatment of syphilis. All of these are various jaundice diseases. Salvarsan itself, when dealing with infectious jaundice is not used unless, of course, syphilis exists simultaneously. Then syphilis, although jaundice is there, has to be treated with salvarsan.

Q You said this morning on direct examination that one could treat hepatitis, if I understood you correctly, on the same day of the incubation period. How is that possible? An incubation period is known as the period preceding the actual manifestation of the disease.

A I didn't speak about jaundice in that connection but I spoke about typhus. I was asked about the foetus which dealt with the treatment of typhus with acridene. I was asked that question by the defense counsel of Poppendick and in connection with that work in the case of two types of illnesses, the treatment was started on the first and third day of incubation. This, however, is impossible in the case of jaundice because one never knows

when the patient concerned was infected. In the case of typhus it is sometimes possible since we know that typhus is usually only transferred by lice. Now, if I, for instance, deloused the human being today I know that he has no more lice and if on the next day I found a louse on his body I can assume that this very day was the very first incubation day. Whereby, of course, it remains unclear whether this louse really transferred typhus rickettsia that is something that one doesn't know but this holds not true in the case of jaundice.

Q Doctor, you have conveyed the thought to me that liver puncture is not considered to be dangerous. If so, why is it necessary to obtain an operative permit in writing from the patient or next of kin for the purpose of all kinds of puncture? Spinal, liver or glandular in all German hospitals by those physicians who carried out such puncture?

A In the case of punctures which are used for diagnostical and prognostical purposes it is customary that one tell the patient that I

as goint to perform this or that puncture and that really settles the matter. If one wants to be particularly careful but that isn't customary at all, then you ask him to give you a written certification as is the case in a real large scale operation. In most cases, however, one just tells the patient, "I intend to do this or the other", and under the circumstance you give him the reason for your doing these things in order to help the patient but a written confirmation of the patient is usually not applied for.

Q. Now, witness, this morning you mentioned at great length Dr. Dohman. Like yourself, Dohman was attached to the Military Medical Academy, wasn't he?

A. Yes.

Q. And Schreiber was also his superior?

A. Yes.

Q. Now, you have stated that Haagen reproached Dohman after one of these scientific meetings at which Dohman had, as I understand, said how far he had advanced in his research work. Now, were you in the presence of Haagen and Dohman when this discussion took place?

A. During these Breslau hepatitis conversations Haagen, Dohman and all those who were concerned in Germany with hepatitis research were present.

Q. I am referring, doctor, to the episode where Haagen reproached Dohman and if I am correct it took place after the actual meeting had convened. That is, I mean they were, so to speak, on their way home. They talked to one another and you were in the circle of Haagen, Dohman and yourself. Is that correct?

A. Whatever was discussed there was actually discussed during the congress. Schreiber ordered this so-called division of work during that congress or rather proposed it.

Q. Schreiber proposed this collaboration on the part of Haagen and Dohman?

A. Yes, Schreiber proposed it.

Q. Now, you have stated that Dohman did actually go to Strassbourg to work on this hepatitis with Haagen. Is that correct?

A. Dohman went to Strassbourg and he was ordered to do that by

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Schreiber. He had to go to Haagen there and a comparison between the viruses as were bred by Dohman was to be carried out with the ones that were bred by Haagen.

Q. How do you explain the fact, doctor, that Schreiber sufficiently arranged the collaboration of Haagen and Dohman when in Exhibit 193, presented to you this morning by Dr. Nelte, the second sentence states: "I" - meaning yourself - "have requested General Schreiber to assign Mr. Dohman to me as of 15 July for a limited period of time to begin with." Who arranged this assignment of Dohman to work with Haagen?

A. Haagen and Schreiber arranged the collaboration of Dohman and Haagen and I belonged to that group too and in addition to the formation of this collaboration of work Dohman had to, of necessity, get into contact with Haagen. Such a meeting had to be arranged by Schreiber and he had to detail Dohman for that purpose. I spoke to Schreiber after the Congress. I told him that these two people would have to get together. Then Haagen invited Dohman in a letter to come to Strasbourg. I had arranged with Schreiber that this channel was to be in accordance with what had already been established during the Breslau meeting; namely, that Dohman went to Haagen.

THE PRESIDENT: The Tribunal will now be in recess until 1:30.

(A recess was taken until 1330 hours.)

CORRECTED COPY

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 10 February 1947)

THE MARSHALL: The persons in the court room will please find their seats. The Tribunal is again in session.

DR. SEIDL (Counsel for Defendant Oberhauser): May it please the Tribunal, the defendant Oberhauser asks to be permitted to leave the courtroom at three o'clock in view of her physical condition.

THE PRESIDENT: The request of the Defendant Oberhauser, extended through her counsel, will be granted. The defendant may be excused from attendance in the court room at three o'clock.

PROF. GUTZMUT - Resumed

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q. Witness, I am still uncertain about your answer to my question concerning the incubation period. I repeat that the incubation period is known as the period preceding the actual manifestation of the disease. Now, you have told me that not in connection with hepatitis, but in connection with typhus, that you can determine on the second day of the incubation period what treatment would be necessary. I want to ask you to answer very briefly, how could you tell that a person has the disease unless you infected them yourself during this incubation period?

A. In the case of typhus the infection is transmitted by means of an infected louse. If, therefore, in the case of a patient who was previously free from lice, and if I find a louse in a typhus epidemic, then I can safely assume that this louse, on the day on which I have discovered it, that is, if I exercise a daily control over the infections on the patient, and if the louse has transmitted the infection to the person on the day I have discovered it only, I say that I can assume that.

Q. First of all, doctor, how big is a louse?

A. A louse is about $1\frac{1}{2}$ millimeters long and approximately $\frac{3}{4}$ of a millimeter wide.

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Q. It is rather difficult to find a creature of that size on a person, isn't it?

A. Our soldiers and also the nursing personnel have managed to do that hundreds of thousands of times during the war.

Q. Then, doctor, after you find the louse, then you have to assume that the louse is carrying the disease, don't you?

A. I say that in a period where cases of typhus occur, that is, within a limited epidemic where also other patients are suffering from typhus, and in that case it can be assumed that the louse which is discovered is infected. Of course, this may be a mistake. Mistakes can occur. But on the whole, the suspicion exists that these lice are infected. That has a definite reason, because the louse must have been transmitted to the patient by another person, when I have determined that on the day before I have discovered the louse, no lice at all were present.

Q. You also have to assume that the louse has infected the person or the patient?

A. That is what I have assumed.

Q. Actually, based on all these assumptions, isn't it far fetched for you to state that you can decide what treatment to administer to a person during this incubation period? You would not know whether that person had contracted that disease at that early stage, would you?

A. That is correct. It is correct that I cannot know that with certainty but I can harbor the suspicion that the louse has infected the patient. And when I have such a suspicion, then if I have any remedy for it, if I believe that the medicine can be already effective against typhus during the incubation period, then I can apply this medicine from the first or the second day of the incubation. Of course in this case it is not certain if the person in question really gets typhus or that he is infected by typhus. I can only see that when the disease, that is to say, the fever, begins in the case of typhus. That is approximately eight to ten days later.

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Q. Now the question of hepatitis. As I understand it, then it would be impossible for one to administer treatment for hepatitis on the second day of an incubation period; is that correct?

A. In the case of hepatitis?

Q. Yes.

A. In the case of hepatitis I cannot determine.

Q. Now, before the afternoon recess, witness, we were discussing the collaboration of Dohmen and Hagen in which you participated, making your suggestion to Gen. Schreiber, and so forth. Did you report to the defendant Handloser on this collaboration between Dohmen and Hagen?

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A. I have not made any suggestion at all. I have not made any suggestion. I have not suggested that Dohmen and Haagen should work together. This collaboration between Dohmen and Haagen was discussed at the General Hepatitis Conference which I have already mentioned. It was suggested by the President of this Conference while formulating working methods.

Q. I do not wish to quibble with you about whether or not you suggested the collaboration of Dohmen and Haagen. I have previously referred to the second sentence of your letter to Haagen where you stated you requested a general to assign Dohmen to you as of 15 July for a limited period of time to begin with.

Now I ask you, did you ever report to Handloser in regard to the collaboration of Dohmen and Haagen? Answer yes or no.

A. I did not have to report about this collaboration at all because during the Conference, this collaboration had already been determined. Professor Handloser was also present.

Q. Thank you. Were you in attendance at these various Military Medical Meetings for Consulting Physicians? In fact, you spoke at one such meeting, did you not? Is it true that reports were made at these meetings on results of experiments in various fields of medical research?

A. In the course of the conferences of consulting physicians, lectures were given about the experiences and also about the examinations which had accumulated. In this connection, I have also reported at some of these meetings about what had been discovered with regard to Hepatitis up until that time by various work.

Q. Then it is true that the experimental conditions were explained by the reporting physicians, is it not?

A. During the conferences, as far as I know, the experiments were only discussed insofar as the cultivation of bacteria in the experiments on animals were described in the form of a lecture and address.

Q. Witness, during the war, did you ever hear anything concerning experiments on concentration camp inmates, that is, from your own knowledge, from reports or meetings, or conversations with other people, or from rumors

or any other source whatsoever?

A I cannot remember that I have heard anything concrete about the execution and also about the results of such experiments.

Q Since you are familiar with jaundice research in Germany, you probably know of the work of Professor Doctor Dresel, Director of the Hygiene Institute of the University of Leipzig, do you not?

A May I ask to hear the name once more?

Q Dr. Dresel, D-r-e-s-e-l.

A I have seen this name in literature. As far as I can recall, experiments on animals were involved in this case. I believe that canaries were used as animals.

Q Did he not cultivate a jaundice virus from persons suffering from Hepatitis, and succeed in transplanting it to animals?

A So far as I know, and as it was always done in other jaundice experiments, he took the infectious material from infected persons, and injected it into animals. He then continued to transmit this disease from one animal to another.

Q Doctor, do you not know that he carried out experiments on concentration camp inmates?

A I have never heard that.

Q In connection with Dohmen's work on Hepatitis at Sachsenhausen you have told this Tribunal that these were more or less experiments of appeasement. Why should Dohmen care two pennings about the feelings of Grawitz in this connection?

A Grawitz wanted the cultures which Dohmen had cultivated in the animal experiments. He wanted to obtain them from Dohmen. He wanted Dohmen to give them to him. As far as I know, he personally wanted to have hepatitis experiments carried out. Dohmen had refused to leave these cultures with Grawitz. Grawitz was unable to obtain these cultures. Dohmen did not want to let these cultures out of his hands because he did not want to lose control over them. He ordered Dohmen to do these things himself. I have already described that this morning.

Q You state that Dohmen did not want to turn his cultures over to other people so he would not lose control of them. Why would Dohmen waste his time examining eight Polish Jews condemned to death in Sachsenhausen to see if they, perchance, had jaundice?

A I did not completely understand the last part of your question.

Q I say, why would Dohmen waste his time examining eight Polish Jews condemned to death in Sachsenhausen to see if they, perchance, had jaundice? Was this act to appease Dr. Grawitz?

A Yes. Things were such that Dohmen carried out the work in order to avoid having to turn his vaccines over to Grawitz. I have already said that Dohmen had sabotaged Grawitz' order to carry out such experiments. That is the reason he worked at Sachsenhausen.

Q At Sachsenhausen in connection with Dohmen's work, you cannot swear that Dohmen did not infect those inmates, can you?

A Dohmen has always told me repeatedly about this work. He told me he was only deceiving Grawitz in carrying out his work there.

Q Do you not think, Doctor, that Dohmen might be a little reluctant to publicize his activities in Sachsenhausen?

A Otherwise, he used to tell me all about the results of his work. After all, the collaboration consisted of the fact that he handled the bacteriological part of the Hepatitis Research, and I handled the clinical part. Whenever I discovered something important, or remarkable, within this field of work, then I would inform Dohmen of this fact. Whenever Dohmen reached some results, then he would inform me of them. Both of us were members of the Army. This jaundice work could not be separated into two parts. One of us had to report the result to the other, and vice versa; I believe that if Dohmen had infected people at Sachsenhausen, then on the basis of these infections, causes of the disease would have to have been discovered at Sachsenhausen. That would have been a result which would not have been without importance for the higher research field, and I believe I would have found out about it.

Q Doctor, were you ever in Sachsenhausen with Dohmen?

A I have never been in Sachsenhausen.

Q Could we assume, for the moment, that Dohmen had unclean hands in this matter? You think if that were the condition Dohmen would tell you about the work he was doing at Sachsenhausen?

A I do not think so.

Q You do not think he would tell you about it?

A I believe he would have told me something about that.

Q Doctor, can you swear here that Karl Brandt did not have any connection with Dohmen's work in Sachsenhausen?

A I have stated that I have not heard from Dohmen, nor from any other sources, that Karl Brandt was named at all in connection with Hepatitis Research, and experiments on human beings. I can not recall that I cannot recall that this has ever been the case.

Q Witness, what was the last rank that you held?

A I was General Physician of the Reserve.

Q You were a member of the SS, were you not?

A I beg your pardon?

Q You were a member of the SS, were you not?

A I was in the General-SS in the Allgemeine SS up until the beginning of the war.

Q What was the last rank you held in the SS?

A My rank was assimilated to a rank in the Wehrmacht. It corresponded to the rank which I held at the beginning of the war, or a short time before the war. At that time I was a Stabsarzt. I was not Oberstabsarzt.

MR. HARDY: I have no further questions, Your Honor.

THE PRESIDENT: If there are no further questions, the witness may be excused.

DR. SERVATIUS: I wish to ask one question on re-examination.

THE PRESIDENT: You may proceed.

REDIRECT EXAMINATION

BY DR. SERVATIUS:

Q. Witness, a short time ago, you spoke of the order of a General Physician Schreiber with regard to the collaboration in the field of Hepatitis and also in the formation of groups. Can you tell us in what capacity Doctor Schreiber ordered this collaboration and this formation of groups? On the basis of what position did he order this? Or who ordered that he do this? Did he issue this order as Commissioner of Reich Research Council?

A. I do not know that exactly. Schreiber was the Chairman of the Hepatitis Conference at Breslau. He was there as General Physician. After the individual results of the various scientists had been presented, he then was called upon to speak about authorization of groups. This was not only for members of the Wehrmacht, but also for civilian Hepatitis scientists. It is possible that he as a member or Commissioner of the Reich Research Council ordered this general collaboration, or that he suggested it. However, it was not stated if he did this in his capacity as a member of the Army as a general physician, or if he did it as Commissioner of the Reich Research Council.

Q. Well, witness, could this not be seen from the way in which he made his address?

A. I cannot exactly recall his words, but he said he thought it would be a good idea if Group A collaborated with Group B; and if Group C collaborated with Group D in order to compare their results of experiments on animals. That is approximately the way in which the suggestion was made by Schreiber.

Q. DR. SERVATIUS: I thank you. There are no further questions.

DR. FRIBILLA (Attorney for Defendant Restock): I have a question.

THE PRESIDENT: You may proceed.

By Dr. Fribilla:

Q. Professor, in connection with the question of the Prosecutor, can you tell me if he handled orders or questions for the Reich Research Council? Was Professor Rostock in any way connected with the Reich Research Council? Do you know what position Professor Rostock occupied in the Reich Research Council?

A. No.

Q. May I now tell you, Professor, that Rostock, himself, was not a member of the Reich Research Council, but that he only was deputy to Karl Brandt? He, himself, has never had any correspondence on the part of the Reich Research Council, nor has he given any orders or assignments. I am further telling you that Professor Rostock occupied the office for science and research; that Professor Rostock has put some questions to you, is not disputed. With this state of affairs, do you consider it possible that the questions by Professor Rostock came in his capacity as Director of the Office for Science and Research or Professor, do you want to claim that Professor Rostock has turned to you in his capacity as holder of any position within the Reich Research Council?

A. I, personally, am not oriented in detail as to the composition and also the assignments individually of the Reich Research Council, nor am I familiar with the organization of the Office for Science and Research. If I have stated before that these questions came from Rostock and the Reich Research Council, then I cannot say that with absolute certainty. I cannot say that this was the Reich Research Council. However, I do know that these questions originated from Professor Rostock. It was clear that they came within the frame of work of the Office for Science and Research. I have already stated that I have never received any research assignments from Professor Rostock.

Q. With this, I consider my question clarified. Professor, I have a second question to ask you. Did the questions from Professor Rostock which asked you to state your point of view have anything in their contents which related them to experiments on human beings?

A. I cannot remember than. However, I have not seen, nor have I read anything in these questions about experiments on human beings.

Q Is it correct or possible that just those questions which were addressed to you concerned the selection of certain drugs and also particularly the conservation of drugs, medicine?

A Part of the questions certainly dealt with that subject. I was frequently informed as to the appropriateness and the necessity of following some methods of treatment suggested by other scientists. I was asked about those things and I was to express the experience I had collected on the subject.

Q Professor, do you remember if these questions dealt particularly or dealt at all with hepatitis and typhus?

A I know that they dealt with typhus and I know that I was asked at one time about this method of treatment with increasingly hot baths; but about the treatment of hepatitis or the diagnosis, I cannot remember anything personally. I cannot remember ever having received such a specialized question. After all, we did not have any medicine with regard to hepatitis which had any specific effect.

Q Thank you. I do not have any further questions.

DR. SERVATIUS: I do not have any further questions to the witness.

MR. HARDY: The prosecution has nothing further, Your Honor.

THE PRESIDENT: If there is no further examination of this witness, the witness may be excused.

DR. SERVATIUS: Mr. President, for the time being, I do not want to call any other witness, and at this time I want to present a number of affidavits to the Tribunal. I believe that the Tribunal has received Document Books I and VIII, and I shall now read from them.

THE PRESIDENT: Have these documents been furnished to the Secretary General's desk?

DR. SERVATIUS: I believe that Document Book No. I has now been presented to the Tribunal. As my first document, KB-1, contains an excerpt from the Weekly Life, which has already been discussed and I want to submit this document as Exhibit 1. I do not want to read it any more because it has already been read in the course of the sessions.

MR. MC HANEY: If the Tribunal please, I would like to have a statement

from defense counsel as to the purpose of the offer of the Karl Brandt Document No. 1, which is an extract from Life Magazine concerning certain malaria experiments carried out in the United States. I think, under certain circumstances, I might have no objection to its admissibility, but I think we will have some very strong objections depending upon the purpose for which the document is offered.

DR. SERVATIUS: May it please the Tribunal, this document has been handed to the witness in the examination. It has been offered as evidence and I think that it has already been admitted. It is of further importance for the question which has to be decided here of the admissibility of experiments on human beings and in excess of this in order to judge the question -- the humanitarian question--all together. The prosecution charges the defendants with crimes against humanity. In order to clarify this concept, we will have to see what is being considered as humane in order to be able to make comparisons. I want to submit an additional number of documents from literature which likewise deals with experiments and which for the same reasons will be of the utmost importance. I, therefore, request that Document No. 1 be admitted as Exhibit No. 1.

THE PRESIDENT: If my recollection is correct, this exhibit was marked for identification: Karl Brandt, Exhibit 1 for identification, but has not been admitted in evidence.

MR. MC HANEY: If the Tribunal please, we offered no objection when this document was put to Professor Leibbrand because the witness was called upon to give his opinion as to the ethical value of the experiments here carried out, and he testified that he had some objection to the experiments related here in Life Magazine. For the purpose of eliciting an expression of opinion from the witness, we had no objection to that procedure. We have very strenuous objections, to the other purpose, as stated by defense counsel for Karl Brandt. This document obviously can have no probative value in proving that any of the experiments

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charged in this indictment are lawful or non-criminal experiments. If the Tribunal permits documents of this kind to go into evidence, it will very probably mean that the prosecution will be forced to assume the burden of justifying every experiment which has ever been carried out or at least all of them that the defense counsel can find information on, were carried on in a lawful manner, that is to say, upon volunteers.

I think there is no issue in this case concerning the fact that an experiment carried out on non-volunteers is not of the nature of unlawful or criminal experiments. The defendant so testified on the stand. I understand he admitted it. It was necessary that the experimental subjects be volunteers. The prosecution in this case has undertaken to prove that the experimental subjects used in the experiments at issue were not volunteers, therefore, adds nothing to the proof, or the clarification of any issue in this case for the defense counsel to bring in great hosts of documents in writing concerning experiments carried out in other countries. There is the very strongest objections to have admitted that type of material into evidence in any event. I think in substantially all cases these writings will not reveal the circumstances surrounding the experiments, and, I am quite sure they will attempt to draw inferences from these writings that doctors in the United States, or elsewhere, have done the same thing as done in this case, namely, carried out experiments on people who were not volunteers under circumstances justified to the belief on the part of the experimenters, which would probably result in death. That would mean the prosecution under the circumstances on its own initiative could investigate each one of these instances, and bring in proof we think we can bring in that the experiments were unethical from any one point of view.

JUDGE SEHRING: Mr. Servatius, did not your witness, Karl Brandt, make the statement that in his opinion any one who is under physical restraint, such as a prisoner would be in a penitentiary, could not actually give voluntary consent to the subjection of medical experiments upon him, even though he gave lip service, even though he had exteriorly stated that he would volunteer for such experiments. I think the doctor-witness said that even then according to his sense of medical ethics that could not be said to be a voluntarily human service.

Now then, proceeding upon the premise that you have established by your own witness, would it not be worth something as a matter of probative value that Dr. Servatius who started with these premises that these people

no matter how much they consented could not in fact willingly consent, and, then to show under these circumstances experiments were conducted upon human subjects? I understand that is the purpose for which Dr. Servatius has introduced this article from "Life". Of course, in the last analysis it will be up to this Tribunal to say what probative value they will give the matter. Of course, the article as it appeared upon its face, and in accepting the promise laid down by your witness Karl Brandt, would tend to prove only that in other parts of the world experiments were conducted upon human subjects.

MR. MCHEANEY: If the Tribunal please, the prosecution is prepared to admit that. I just don't see that the matter is at issue and proves anything. Even if it be assumed that experiments were carried out in some other country of the world, and in certain cases upon non-volunteers, I don't think it justifies any of the alleged crimes in this case. They can commit crimes in the United States, or elsewhere, just as they can in Germany, and proof of any given instance that such a crime has been committed in the United States I think does not believe the defense anything in this case.

JUDGE SEBRING: I had understood that as the purpose of this offer. I don't suppose that these defendants are willing to admit to the case of the Prosecution at this time, and I had supposed that the purpose of this proffer was to show that these defendants had conformed with what they had considered to be accepted standards in the field of medical experiments. Isn't that the purpose?

DR. SERVATIUS: Yes.

MR. MC HANEY: I don't want to make an extended argument, but as I see it, there is no dispute either on the basis of this article or on the part of the Defense with the Prosecution that it is necessary that experimental subjects be volunteers, and I do not see that loading down this record with extracts taken from Life and medical journals, and all other possible sources is going to aid the Tribunal or do anything except result in a lot of smoke being thrown up around the character of the experiments carried out elsewhere.

For example, the defendant Karl Brandt on the stand, under questioning by his own Counsel, made an allusion to certain freezing experiments allegedly carried out on six insane persons in the United States. I think he said that they died. I did not examine Karl Brandt about that statement because I did not want to consume the time that it would have taken, but I think Karl Brandt will admit that he did not know a thing about what he was speaking about. We looked into the matter. The experiments were carried out, in fact, at the McLean Sanatorium, which I understand, is one of the most expensive private insane asylums in all the world; that these so-called freezing experiments which he described were a method of therapy applied to certain insane persons in the asylum, and I might say that it probably cost them a very large sum of money, and that certainly no one was killed.

It is a little bit ridiculous to be making these allusions, comparing a method of treatment carried out under such circumstances

to one carried out in the Dachau concentration camp.

Now, that will come up each time proof is put in about an experiment made in the United States, or in France, or elsewhere. The Prosecution will be put to the burden of investigating through its sources as to precisely what went on, or the Defense Counsel will be raising doubts in the mind of the Tribunal that the something happened in the instance which they cite as happened in the Dachau Concentration camp. We will have to come in and prove that it did not happen that way, that the experimental subjects were given a certain form to complete, that they voluntarily underwent the experiment, that it was fully explained to them beforehand, that the whole purpose of the experiment was laid out to them -- all these matters.

As a practical matter, I think that would be the burden that would be heaped upon the Prosecution, or we would find this record spread full of little short extracts from this or that medical journal, making reference to a freezing experiment here, a malaria experiment there, or a yellow fever experiment on the Panama Canal Zone. We would then have to come forward and explain these experiments because I think Defense Counsel is undoubtedly not in a position to show that in any one of these instances was the experiment carried out on involuntary subjects or in any way tainted with criminality.

The Prosecution here is willing to accept the burden of proving that the experiments here charged were carried out on non-volunteers in every sense of the word, and I mean by that going greatly beyond any concept of duress which may be drawn from mere incarceration in a prison, so I think that it is a matter of some consideration for the Court as to how these matters are to be treated, because there is every reason to believe that Defense Counsel will fill this record full of such matters as that, and the Prosecution either can take the position of ignoring them or trying to find out exactly what went on in each experiment.

For my own part I can not see their materiality, and certainly I can not see their probitive value; unless they are willing to assume the burden that experiments are systematically carried out in other parts of the world in the manner here alleged by the Prosecution, then I can not see that they have any materiality. If they can prove that and if that is the purpose for which they are offered, and they can show that everybody all over the world was doing what we charge these people with doing; why, then, it certainly would have some materiality and probitive value. Otherwise, I for one object to the offer of this document

for any purpose other than eliciting an opinion from the witness who was on the stand, and I don't think it need be admitted for that purpose since he has already been shown the document and has given his opinion.

DR. SERVATIUS: Mr. President, may I state my point of view with regard to the speech by the prosecutor?

The probative value of this document, in my opinion, is very apparent. Just what the defendant is being charged with here is shown by the document with the case it sets forth. It shows that, by order of the Government, experiments are being carried out on persons of whom the expert of the prosecution himself says that they could not be considered as voluntary.

In addition to this, the general importance of this document is apparent. One speaks about crimes which the defendants are alleged to have committed, but we want to determine if they are crimes. Precisely the ethical and legal bases are very doubtful in this case. The prosecution refers to the criminal law code of all countries, which is to be the basis in judging these defendants, and the prosecution has placed an expert on the stand here who has voiced an opinion in the ethical sense. The purpose was to establish a basis for the accusation. I now must be given the possibility to present the material that counters these motives. I do not need to go into the facts if all the experiments are described in articles and books in accordance with the truth.

For me it is an important point of view that these things are being accepted by the public all over the world without any objection. For example, here in Document 1, no voice was raised in America to object to this. This is not a single case. The same thing is happening in all countries for many years. In Document 2 & 3 I have collected a number of articles from literature which would astonish everybody, but it is still more astonishing that nobody in the world has been excited about it.

Now we have an accusation made in the same sense, and the law of humanity is referred to--that it must be of importance to be able to

prove that humanity and humaneness have not been considered to that extent up to now.

It is correct that the document has been presented only for identification thus far, but I now request that it be admitted in evidence.

DR. SEIDL (Defense Counsel for defendants Gebhardt, Oberhauser and Fischer): May it please the Tribunal, in consideration of the fact that this is a basic question, I request permission to express myself briefly in connection with this question.

May it please the Tribunal, a number of defendants, and particularly the defendants whom I represent, are being accused of having carried out medical experiments, and that these acts represent crimes. In order to support these claims, the Prosecution has referred to the general regulations of the criminal code, as set forth in Control Council Law Number 10. This law does not set forth that an experiment under certain conditions is a crime, but this law contains every other law and reads like murder, injury, and so on.

The law is not something that is hovering in the air, but, in order to reach a just verdict, it is necessary to show actual conditions in the field in question and to examine them. Therefore, if the defense presents evidence of this kind, it is not in order to claim that in other countries -- in the United States and in France -- crimes of this kind are also being committed, but the one to fulfill the abstract contents of the criminal code. It is a fact that many laws do contain these characteristics of the actual deeds. -- Indications which have a certain evaluation as a evaluation as a prerequisite. In order to judge the question, if a medical experiment, it's a crime. The question has to be examined if this experiment violates a law. Furthermore, the question has to be examined if such experiment is a deed with which a person can be charged. Examining these questions, it cannot be indifferent if physicians in other countries act in such a given situation. For the defense, therefore, it is decisive, if also in other countries and under application of the generally valid, ethical and medical professional standards, physicians, in the interests of a higher goal, of a view to a special necessity, can carry out such experiments. Insofar as evidence so far presented by the defense is important because it places the Tribunal in a position to examine, to abstract the laws in their application and reality and to properly evaluate the presentation, just like international law, can these things be equally represented, just as little as possible in judging the question, if a certain medical experiment represents a crime, without considering the practice of physicians in other countries. That is all I have to say.

PROFESSOR SAUTER: (Counsel for the defendant Blome): May it please the Tribunal, first of all I would request you to tell me if a very principal question is not involved here. In my opinion, we have reached a decisive phase in the trial. For us defense counsels it is not a case of raising a lot of smoke, as the representative of the prosecution has stated.

A defense which realizes its responsibility and fulfills this duty properly rejects that. For us, we on our part want to contribute to the glorification of the legal situation, and so, to give the necessary basis to the Tribunal in order to reach a verdict which will actually, from all sides, be considered as fair, correct and wise. The defendants have been accused of inflicting injuries, physical injuries and murder. As the law is written, in your law code as well as ours, "Thou shalt not kill. Thou shalt not inflict physical damage. Thou shalt not injure anybody." But what the human being has to do individually in order to fulfill this law, and in what cases he can diverge from this law, we are not directly told by the law. In a case, like the case on hand, the medical professional ethics will have a decisive weight. A professional concept of the physician who properly fulfills his duty, will show to the Judge, in order to enable him to judge what is necessary for medical science, and what is superfluous; what can be considered as legal, and what is without any doubt illegal. The professional concept of the medical profession gives this information on the subject. That is the professional concept not only of the German physicians, but also of the foreign medical profession, just like certain basic principles exist which always return in the same way in all criminal codes, so for the medical profession, in all civilized states there are certain procedures and directives which are being followed by all countries and which must be considered correct. If now the defense is able, by means of a large number of literary evidence from the press and also from special medical journals-- if the defense is able to give a basis for the Tribunal in order to clarify this difficult question, under what conditions and with what precautionary measures such experiments are permissible, then the Tribunal will certainly welcome, if it can also consider this material in reaching a verdict. The defense cannot be satisfied that any individual expert, for example like Professor Leibbrand, in a certain way is the only assistant of the Tribunal in deciding these difficult questions. Your Honors, already the fact that Professor Leibbrand

maintains the point of view that a prisoner was not at all able to give his consent to an experiment requires a certain amount of coercion towards accepting this opinion. Furthermore, we have heard that a large number and series of experiments was mentioned by this expert which the medical literature deals with. For the most part, he did not know it at all. And then, he only stated: "Yes, I know them", but he did not with a single word state his opinion to them, and he did not mention any word, if he likewise considers the experiments carried out in foreign countries as criminal, or if he considers these experiments abroad justified and legal.

Your Honors, if it has been stated, crimes are being committed everywhere, not only in Germany, but also in foreign countries. Then this phrase does not serve the decision of our case at all. If serious scientists report in medical journals about experiments which they have carried out and if, furthermore, no public prosecutor and no court in the world objects to these experiments, or has taken these scientists to give an account of themselves, then this expresses the fact that, in the case of the research concerned, no crimes were committed, but that there were serious scientific attempts. And, when I read through these document books, when amongst the scientists from whom the reports originate I see directors of international reputation, directors who have received the highest distinctions for their work, for these experiments,

then this may lead to a certain caution with regard to the question that it is stated then, these people who are living abroad, also are just simply criminals, and their research must be considered as criminal. But the prosecution does not bear this consequence into account. And, in the interests of justice, in my opinion, it must be examined if, and to what extent, and in what connections one or the other experiment, which one or the other of the defendants may have carried out must be placed on the same level with experiments which have been not described as crimes by the international press, but as medical achievements, which in many cases received the highest recognition. As a result of this, Your Honors, I am of the opinion that it is not only in the interests of the verdict in this trial, but also in the interests of medical science itself, that these trials should contribute to tell the medical scientists in Germany and all over the world, when they can carry out experiments, and under what prerequisites they have to start, and that precautionary measures they have to follow, and things of that kind.

Your Honors, if this question is clarified as a result of your verdict, then this will contribute just as much to the needs of the medical profession as the first Nuremberg trial contributed to the further development of international law. I therefore request that it is necessary that you should obtain knowledge of this literature, and that perhaps you shall occupy yourself with it in your verdict. That is all I have to say, Mr. President.

MR. MC HANEY: I have listened with great interest to the impassioned pleas of Dr. Sauter and other defense counsel, but I have not yet heard a clear delineation of the purpose for which this proof is offered, and the materiality to this case. I would suggest that the Court reserve its ruling, that the defense get together and make up their collective minds as to precisely what they expect to prove with this, and just exactly how it relates itself to the matter at issue in this case; that, on the basis of such a statement, the prosecution will submit a brief to the Tribunal. The prosecution has always assumed the burden, and has added in the indictment, that these experiments or these murders and tortures and other inhumane treatments resulted from

medical experiments carried out on involuntary human subjects. I do not think they can find one word or one statement, anywhere the world over, that says such medical experiments are lawful anywhere. The thing at issue in this case is the voluntary character of the experiments here carried out, and it behooves this Court nothing, adds nothing to the proof, to have them load down this record with hundreds of examples of human experimentation. This trial is not condemning human experimentation generally at all, and not one word has been uttered by the prosecution to indicate such a thing. The ordinary law of assault and battery and manslaughter certainly gives to the United States; and I take it they exist in Germany, and if these defendants committed experiments upon persons who didn't consent to undertaking those experiments, then I see no difficult legal question presented at all. And now we can talk in very impassioned terms about the necessity of this Tribunal orienting itself upon the precise conditions under which every human experiment has ever been carried out. I submit that it is both unnecessary, immaterial and constitutes an intolerable burden, and will prolong this trial beyond any measure of reason. The very experiment they're talking about in Life Magazine, reads on its face that it is voluntary; then how can it be material to justify the experiments carried out by Schilling in Dachau, when the prosecution has undertaken the burden of proving those experiments were carried out on non-volunteers, persons who were forced to undergo the experiment. Then whence comes the materiality of an experiment carried out in a prison in the State of Illinois, with malaria. Now it so happens that we know a little bit about that experiment. We have the forms which were submitted to the prisoners, which advised them what would be done to them, and which required that they sign their name to it on the bottom if they wished to undergo it. We have a radio speech made by one of the persons who did undergo it; we have quite a mass of facts concerning this particular experiment, and the same thing will be true of other experiments, to which they will make some sort of an allusion during the course of this case. But I submit they prove nothing,

they don't clarify anything at issue in this trial, and would put, in fact, the burden on the prosecution of clarifying the little scrap of evidence - if you call it evidence - which they will try to throw into the record of this case. Then we will have to come forward and really tell the Tribunal what it's all about, or the Tribunal will have the uneasy feeling that maybe there was something going on here, like something that has been charged here. I think it's a rather important issue, and one which bears very materially on the length of this trial, and I think it would clarify the situation if defense counsel would clearly and concisely state what they expect to prove by this type of evidence and how it bears on any issue which we have in this case, and then we will undertake to answer it.

THE PRESIDENT: The Tribunal will be in recess now.

(A recess was taken).

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THE MARSHAL: The Tribunal is again in session. May it please Your Honor the defendant Oberhauser is absent in accordance with the approval of the Court.

The question of admitting an exhibit was being considered by the Court before the recess.

DR. FLEMING: Yes.

THE PRESIDENT: The Tribunal is ready to rule on that question. The Court has considered the document of the defendant Brandt as Exhibit No. 1, and without establishing any rule which will be a precedent in any future case, each case as it arises will be individually considered by the Tribunal. The Tribunal admits in evidence the defendant's Karl Brandt, Exhibit No. 1.

DR. SERVATIUS (Attorney for defendant Karl Brandt):

Document No. 2, Exhibit No. 2, I submit the periodic list of experiments; it hasn't been made ready in the English yet, and it will be submitted to the Tribunal in the English translation at a later date.

As Exhibit No. 3, I am submitting the chart, which can be seen on the wall, together with an affidavit of the co-defendant Brank, which was already read into the record. This will become Exhibit No. 3 A; it is Document KB 15, Exhibit No. 3; KB 8, Exhibit 3 A.

THE PRESIDENT: The Court will require that copies be furnished to each member of the Tribunal.

DR. SERVATIUS: They haven't been made available as yet since the mimeographing department is overburdened, but they will be submitted to the Tribunal at a later date. Mr. President, I submit the originals and I shall see to it that the Tribunal will receive their copies.

THE PRESIDENT: That will be sufficient; you may submit the copies.

JUDGE SEERING: Is it the chart, Doctor, or Brandt's affidavit that you are asking to be submitted as Exhibit 3?

DR. SERVATIUS: The chart as 3, and the attached affidavit as 3-A. I further submit as Exhibit 4-A the document KB-29, which was the document of the prosecution, NO-150. That will become Exhibit 4-A and 4-B. It was already submitted during the course of the examination.

MR. HARDY: What does that document refer to that you just mentioned, Doctor?

DR. SERVATIUS: The contents of the document constitute a letter by Bouhler according to which he has to give directives with reference to the execution of euthanasia.

THE PRESIDENT: Well, where is that document to be found? Is that contained in Brandt's document book?

DR. SERVATIUS: No, it is not contained in the document book. It was submitted during the examination. It was submitted by the prosecution and you will receive copies later, and I have already submitted the photostat.

MR. HARDY: Your Honor, I do not recall that Document NO-150 was submitted by the prosecution. I believe it was submitted by defense counsel in examination of Brandt, and I imagine English copies are available and I will try to assist Dr. Servatius in getting them for you.

DR. SERVATIUS: It has been submitted to the Language Division but was not yet returned. I shall submit it as soon as I have it.

I am now offering an affidavit of Miss Alike Krohne. She is an employee who worked in the office of Brandt. It can be found in the document book, page number 7 under KB-4. I have a technical question in that connection. There are two document books. This is contained in document book number 1, page 7.

THE PRESIDENT: Copies of this document book furnished to the Tribunal do not have the pages numbered. Where do we find this document?

DR. SERVATIUS: There is an index at the beginning of the document book, and the document books are numbered according to their figures so

that you can easily find document KB-4.

THE PRESIDENT: Unfortunately, the index page of the Brandt document book 1 is illegible.

DR. SERVATIUS: Your Honor, it is page number 3. Your Honor, the English text isn't quite legible.

THE PRESIDENT: We have found the document, Karl Brandt Exhibit 4.

DR. SERVATIUS: Mr. President, I would be grateful if you would tell me how you want me to read the documents. Will it be sufficient if I just roughly tell you the content and then cite certain passages, or is it necessary to read the document in its entirety? I may point out that during the trial before the IMT it was considered sufficient if merely the essential points were referred to in order to shorten the proceedings.

THE PRESIDENT: The Tribunal is of the opinion that that will be sufficient, to call attention to essential portions of the document.

MR. HARDY: May it please the Tribunal, I have two questions to ask Dr. Servatius in connection with this affidavit.

JUDGE SEBRING: May I ask first, that is coming in as what exhibit number?

DR. SERVATIUS: It will be Exhibit Number 5.

MR. HARDY: In connection with Exhibit Number 5, as I see it from my copy, I believe this document was not signed in the presence of Dr. Servatius, and not having the rules of the Tribunal before me now in connection with the procedure necessary to receive a document here in evidence in good form, I question the right to admit this into evidence due to the fact that such certificate that it is a correct signature was not obtained by Dr. Servatius or in his presence. It shows on the face of the document that the affiant is from Bremen. I reserve the right now to object to this document later after I have had time to peruse the rule of the Tribunal in connection with the admissibility of affidavits.

THE PRESIDENT: The prosecution may reserve the right to object to the document.

DR. SERVATIUS: Mr. President, I signed this document and thereby

certified that it was signed in my presence. I believe it is an error on the part of the prosecution to say that just because the woman was in Bremen it wasn't signed in my presence; it actually was. If this explanation doesn't suffice I would have to bring a new certification of the witness saying that she signed this in my presence.

MR. HARDY: The prosecution accepts the word of counsel that it was signed in his presence and refrains from objection.

THE PRESIDENT: To save future trouble a corrected certificate should be found showing that the witness signed the document in presence of counsel.

DR. SERVATIUS: The witness Krohne was employed as a secretary with the defendant Brandt from the beginning of the war until January 1944, and she says that the agency was normally in the Reich Chancellery but that in reality Brandt worked in the surgical university clinic. She knows about the order of March 1944 which referred to the anti-chemical warfare agents and she says that that decree was very brief. I quote: "I definitely know that it did not contain directives on experiments with poison gas nor did I see later on in the correspondence or elsewhere anything that would have intimated that Professor Brandt had anything to do with such." End quote.

Then the witness refers to a radio interview regarding the office of Professor Brandt and she says the following, and I quote:

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"In January 1945 Professor Brandt participated in a radio interview by Dr. Ott in the Berlin Broadcasting Station and made the following declarations as to the functions of his new agency. I remember that upon the question as to the character of his position towards the other agencies of the Reich he replied that one had to consider his position as that of a sort of 'differential'.

The witness continues and I quote: "I wrote that interview together with the secretary Henke at the time and was also present when it was being recorded and was comparing the transmission with my manuscript."

Finally the witness states that the Professor Brandt was active as an Oberarzt in addition to his other duties, in addition to his other organizational duties.

This brings me to my next document which can be found in the document book under KB-5. It is an affidavit made by a certain Dr. Richard Reinhardt who was commissioned to institute the treasury and who received all the material connected with that agency. The witness, as a member of the Wehrmacht was commissioned and assigned to Agency Brandt in 1945. My text by error has 1943; that is, he was only assigned to this agency near the end of the war but on the basis of his special tasks received insight into the entire files. He settles in detail the structure of the office; he pictures the legal foundation; and he confirms what we already know from the testimony of witness Dr. Lamers, namely, the size of the office, the scarcity of funds, and then comes to the question of euthanasia, and in that connection he says, and I quote:

"I can give the assurance that among the controlled cash receipts no items pertained to or were in connection with the euthanasia program."

The witness knows something about the gas defense decree of the 1st of March 1944 which was recorded under the designation, Neli, and in that connection he/.....

says the following and I quote:

"The decree which was filed among the usual secret records of the agency had been handed over to me by the secretary for a quick study. I do not recollect its wording exactly but it reads about as follows: 'Charge my General Commissioner Professor Dr. Karl Brandt to intervene authoritatively in questions of gas defense. The Reich Minister for Armament and War Production is instructed to give Professor Brandt admittance to the assembly shops at any time and to offer him all necessary assistance and information he might require.'"

I now come to the following document which is document KB-6 which I offer as Exhibit Number 7. It is the affidavit of another employee, a certain Frau Jutta Bach. From the 1st of April 1943 until April 1945, she was active in Karl Brandt's office. She was in charge of keeping the registry and she became familiar with the contents of the records kept there, among them Hitler's initial euthanasia decree to Brandt and Beuhler, and in that connection she says the following and I quote:

"With reference to this euthanasia decree there was no special correspondence and what there was only in the form of reports from doctors or parents on births of physically or mentally handicapped children for whom euthanasia was requested. They were dealt with only insofar as it was advised to consult recommended medical authorities for study of the case or to get financial assistance. Approvals for the requested euthanasia were never given."

The witness further makes statements about the persons that had access to the office and says the following, and I quote:

"Reichsleiter Bouhler and the agency chief Brack I am acquainted with as members of the Fuehrer's Chancellery. There was no official correspondence with them in any way connected with euthanasia or the Reich committee. The names of Professor Dr. Heydo, Professor Dr. Nietsche are unknown to me. If they had had anything to do with our

agency in my time I would necessarily have known them. The names of Dr. Pfannmueller, Schumann and Falken hauser were not known to me in the agency either. Correspondence with Dr. Linden's office, so far as I know, was limited to bombed out hospitals and their transfer. There was no correspondence either with Dr. Centi in connection with euthanasia and Reich Committee matters. So far as I know there was also no written correspondence with Blankenburg, Hegenor and Haefner. Blankenburg and Haefner are indeed known to me but only for the reason that they worked in the same office building."

I don't know of any discussion on Euthanasia with Bouhler's office.
I would have necessity known of this.

I now skip a paragraph and I come to the part where the witness speaks about Bodelschwing, and I quote:

"I further testify that at that time Professor Brandt enjoyed thoroughly friendly relations with Pastor von Bodelschwing. In the Summer of 1943 I was present when Pastor von Bodelschwing once spent a whole afternoon as a guest in Professor Brandt's residence, and both of them conversed very unreservedly. I can further recall that Pastor von Bodelschwing once spoke publicly of the fact that his institutions had been spared such encroachments."

I now come to document KB 7, which I am offering as Exhibit No. 8.

THE PRESIDENT: Just a moment. What document did you offer as Brandt's Exhibit 6.

DR. SERVATIUS: Exhibit 6 is Document Karl Brandt, KB 5, and the document which was just read, KB 6, will become Exhibit No 7. That is the document of Jutta Rach.

I now come to Document KB 7, which will become Exhibit No. 8. It is an affidavit of the nurse Netty Germann. It only has a general content and shows that the defendant Karl Brandt was an active physician in the clinic and that he carefully cared for his patients. This is being submitted in order to show in what manner the activity of Karl Brandt was exercised and how he was engaged in his various tasks.

And, the Document KB 8 has already been submitted, and that brings me down to Document KB 9, which will become Exhibit No. 9. This is an affidavit Of Professor Werner Schulemann. Doctor Schulemann is a specialist in Malaria research, and I quote:

"During the war I was a full Professor of pharmacology at the University of Bonn and was a consultant at the Special-Malaria

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Hospitals Godeshohe and Rheinblick in Bad Godesberg, in the Army
Command District VI. In these hospitals in connection with my institute
Malaria research was carried on, and carried on in accordance with
the methods recognized and customary with specialists

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at home and abroad.

"I came in contact with Professor Karl Brandt in the Summer of 1943 when I approached him in order to make the Malaria hospitals secure from other claims and was successful in winning his help. In the scientific discussions on Malaria research which took place then Professor Karl Brandt never made any suggestions or gave any directions to me, or even made any allusion to the effect that experiments should be performed on human beings in an unlawful manner. In particular, he did not speak of Malaria experiments which had been carried out in Dachau.

"If Professor Karl Brandt had been active in this type of research he would have had to discuss the questions involved with me especially as I am known as a specialist in this field. I received very high scientific distinctions for my achievements in the production of synthetic malaria medicines, among others the Mary-Kingsley medal of the Liverpool School of Tropical Medicine in 1938; and after the occupation by the allied troops I immediately got permission to continue the work in my institute. On the basis of all that I know about Professor Brandt. I consider it highly improbable that he had anything to do with criminal experiments, or that he approved of them, asked for them or suggested them.

"I met Professor Brandt twice during the war and each time I was pleased at his clear, clean and frankly critical attitude towards the entire development. I emphasize especially his frankness and his understanding for academic-scientific problems."

I drop out Document KB 10, which is the witness Gutzeit, and I submit now Document KB 11, Exhibit No. 10. This is an affidavit of Doctor Schiebor. It is designated as Affidavit II, since, more than one was given by him. The witness Schiebor speaks about the "Action Brandt". This work was already mentioned during the course of the proceedings and he explains the "Action Brandt" as the execution of a medical program. He goes on to speak about these special orders which Brandt received and I quote: This order was issued at the beginning of March 1944 as a parallel to the medical program,

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"Action Brandt". This decree in itself, contents, is addressed to the Speer Ministry and was, according to its purpose, immediate production order by which Professor Doctor Karl Brandt was opposed to the manufacture, as a buyer, and conceding the production had full powers of control at the same time. As far as I remember there was no scientific medical research order for Professor Karl Brandt attached to it. We are here concerned with the anti-chemical warfare decree.

And, I now come to the next document which was also made by the witness Schieber. It is KB 12, which I am submitting as Exhibit No. 11. It deals with the fact that Defendant Karl Brandt managed to get animals at great expense in the Summer of 1944, and that he transferred them from Spain to Germany. It says here in order to carry out the task, and we are concerned with biological research parallel to human beings, as certain animal action was started by me and Professor Karl Brandt for the Armament office, of approximately 200,000 Swiss Franks, and after my recognition as Chief of Army Supply Office in October 1944, from the Speer Ministry, I made strenuous efforts together with Professor Karl Brandt to have a large number of animals brought by extremely difficult air transportation from Spain to Germany. These were put at Professor Karl Brandt's disposal for experimental purposes.

I then submit Document KB 13, as Exhibit No. 12. This is an affidavit by the co-defendant Rudolf Brandt, which I am going to read, and I quote:

"I, Rudolf Brandt, defendant in Case I before the Military Tribunal at Nuremberg, Germany, have given a series of affidavits which were produced in evidence by the Prosecution during this case. I affirm, under oath, that after having been duly warned that I am liable to punishment if I make a false statement. My statement corresponds to the truth and was made to be offered in evidence at the Military Tribunal I at Nuremberg, Germany.

"In this affidavit I have given to the Prosecution, and which were produced as evidence, I declared that the co-defendant Professor Karl Brandt, surely has had knowledge of the Sterilization and that, of course, he had known

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of the Muthanasia experiments, and that he surely had known of the Typhus experiments. I do not have any actual evidence for this statement made by me. I have signed the affidavit as it was presented to me without proper knowledge and no knowledge of the circumstances, and the fact which justified this conclusion. In one affidavit I declared further that the decree dated 1 March 1944 concerns the chemical warfare agents, had contained an authorization for Professor, Doctor Karl Brandt to sponsor medical research in connection with gas raids, and I mentioned that this concerned experiments.

"I have signed this precise wording, although the contents of the decree were not present to my mind. Likewise, I cannot ascertain that from my own knowledge, when Professor, Doctor Karl Brandt, had been informed of the details of the Mustard Gas Experiments."

I further submit the Document K-14 as Exhibit 13. This is a further affidavit made by the witness Schidler. It concerns a letter from Minister for Armament Speer to the Field Marshal Keitel, which is attached as an annex. The witness here in this affidavit confirms that the text is correct. And, in this connection, I would like to say that he has a copy on his person, only I mention here the omission of the details. I submit this letter in order to prove that in the distribution list at the end of the letter, Karl Brandt was not mentioned, and, therefore, dealt directly with Keitel in matters of SS. In the letter itself, the limitations and production are set out.

The next document is an affidavit by the witness Lammers. I am just told by the Prosecution that the original letter is available, with the Prosecution.

MR. LADDY: I do not wish to be understood as saying that I asked Dr. Servatius if the original German document was available. But that I understood him to say that it was available. He has a copy certified by himself.

DR. SERVATIUS: I then have the Document K-16 which I am offering as Exhibit 14. It is a chart on Euthanasia in the Reich Committee which has not been completed as yet. A copy will be presented to the Tribunal at a later date. We are here merely concerned with the Chart.

THE PRESIDENT: That was the last exhibit before this Chart which counsel has referred to.

DR. SERVATIUS: That was Exhibit 13, Document K-14.

THE PRESIDENT: That's correct; I have a note of it.

DR. SERVATIUS: Document No. 17 can be left out, since it was made by Lammers, who was examined here. And I now submit Document K-18 as Exhibit 15, which is a document in the form of an affidavit made by Dr. Werner Kirchert, who was former medical officer of the Waffen-SS, and he was concerned with the leadership of an Euthanasia institution. And I quote from the affidavit:

"In September 1939 Reich Physician SS Dr. Cawitz summoned me and

asked me to make a list of the German Lunatic asylums and their number of inmates, based on the data in the Reich Medical Calendar. The reason, I was told, was the fact that because of the evacuation of the Westwall zone the inmates had to be transferred to other asylums. After I had finished compiling the list and had handed it in, Gravitz sent me to Dr. Hofelmann-Chancellery of the Fuehrer-. There I learned that actually it was a matter of euthanasia of the insane, and that the transfer was only a pretext. It was pointed out to me that it was done on direct orders from the Fuehrer and that Reich Leiter Bouhler had been instructed to carry them out. I was very shocked at such an order from the Fuehrer and I spoke again to Dr. Gravitz and had another two or three discussions with Dr. Hofelmann to which Professor Dr. Heyde of Wuerzburg was also called in. The entire euthanasia procedure was still entirely in its early stages and a plan was drafted as to how the matter should be carried out. It was to be done in several institutions. At first 3 institutions in different parts of Germany were mentioned. The insane people concerned who should come under the program were to be selected, whereby Heyde as chief expert reserved the final decision for himself. Everything should be based on strictly medical views and only such persons were to be selected who in a psychiatric meaning could be called "chronically" ill. Heyde himself wanted to visit the lunatic asylums, to select the personnel and instruct it accordingly. As I could not and would not approve of such a plan I told Gravitz that I refused to take over an euthanasia institute. He, therefore, deemed it advisable that I leave Berlin as soon as possible and ordered me to take over a medical company of the Waffen-SS which I did on 7 Oct. 1939. During all the negotiations the names which were mentioned or the persons who took

part were: GRAWITZ, HEFFEIMAN, HEYDE, BLANKENBURG, BRACK, and DOUHLER. Not a single word was said about Dr. Karl Brandt. Everything at that time was still in the early stages.

I wish to add that I was told at the negotiations in the chancellery of the Fuehrer that euthanasia was regulated by decree of the Fuehrer and also by GOERING's signature, as chairman of the Reich Defense Council. I did, however, not see these signatures. Later the problem arose again when I was a department head with National Health Leader Dr. CONTI, namely when at the end of the summer of 1941 the Fuehrer's order came that euthanasia should be stopped. Since approximately at the same time CONTI received a copy of the protest letter of Archbishop Count von GALEN of Muenster, in which the latter objected most strongly to the execution of euthanasia, CONTI said something like he had always warned against this unreasonable execution. But here too the name of Professor Dr. Karl Brandt was never mentioned.

I know nothing of 14 f 13 in concentration camps. From the time of my work with CONTI and with the Waffen SS I know that relations between HIMMLER and Dr. Karl Brandt were strained."

The next document made by factory owner Rueggeberg, which is KB 19, I now offer as Exhibit No. 16. The witness tells about an interview which Pastor Bodelschwing had with the broadcaster GRAHAM and he says the following, and I quote:

He mentions that being "Questioned by the commentator, Pastor von Bodelschwing said, almost literally, -- in any case in effect- "the following, in paragraph two: "You must not picture Professor BRANDT as a criminal, but rather as an idealist." This radio talk left me under the impression that Pastor BODELSCHWING did not agree with the nature of Professor BRANDT's activities, yet he had a favorable opinion of his human qualities." I am not submitting Document 20, since the witness is going to appear.

Then comes Document No. 21, which I am offering as Exhibit 17. This is an affidavit of the witness Dr. Schnelle, who appears about the "AKTION BRANDT" in a different sense, namely: the transfer of the special hospital institution

and the evacuation of patients from cities into that institution. It is in connection with the suspicion and the charge that the re-transfer of the sick and old was conducted for the purpose of Euthanasia. The witness affirms that these transfers took place because of air raid precautionary measures. Then, I am offering KB No. 21 as Exhibit 18. Again, it is made by the already mentioned Schieber. The affidavit sets forth in detail what was understood by "AKTION BRANDT" namely: the entire medical corps and the furnishing of medical equipment.

The next document is KB 23 which I am offering as Exhibit 19. This is an affidavit made by the successor of Pastor Bodelschwingh, at the mental institution in Bethel near Bielefeld; the witness says, as follows, and I quote him:

"The director of the BODELSCHWINGH institutions in Bethel near Bielefeld, pastor D. Friedrich von BODELSCHWINGH, who died on the 4th of January 1946, has had several discussions with Prof. Dr. Karl BRANDT over the question of "extirpation of life not worth living", in February 1941 and during the following months. Pastor D. BODELSCHWINGH has reported about this only very discreetly within a very close circle of co-workers, to which I belonged. He emphasized then:

1. that, though they held fundamentally different view of these measures, he had met a willingness on Prof. Dr. BRANDT's part to hear the objections.
2. that Prof. Dr. BRANDT had talked about "completely extinguished life", while other exponents of these measures based them upon the formula "incurable" or

"hopeless".

3. that Prof. BRANDT was aware of the fallibility of those measures, and that he was prompted to act, not by brutality, but by a certain idealism which was inherent to his conception of life." And this brings me to the conclusion of the document book belonging to "VOLUME DOCUMENT BOOK 12." Do you wish me to continue?

THE PRESIDENT: The Tribunal does not wish you to proceed further this evening. I will ask the Secretary-General to take those books and have them furnish and combine No. 1. My volume of No. 1 is completely loose, and number the pages in the second document book, which makes reference more easy. Do you want to do that or not? (pause) The Secretary-General will have those ready for use in the morning. The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

THE MARSHALL: The Tribunal is in recess until 9:30 tomorrow morning.
(The Tribunal adjourned until 11 February 1947, at 0930 hours.)

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CORRECTED COPY.

Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 11 February 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Court Room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in court.

THE MARSHAL: May it please your Honor, the Defendant Oberheuser is absent from the court today due to her recent illness. A certificate as to the cause and duration of her absence will be presented at the earliest possible opportunity.

THE PRESIDENT: Are the other defendants all present in court?

THE MARSHAL: The other defendants are all present in court, your Honor.

THE PRESIDENT: The Secretary-General will note for the record the presence in court of all defendants except the Defendant Oberheuser who is excused on account of illness.

MR. HARDY: May it please the court, in the early stages of the trial the court ruled that on the calling of a witness to the stand notice will be given to the defense or the prosecution and such notice will contain the pertinent information regarding the particular witness. I have just received six requests to call witnesses on the part of the defense

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containing merely the last name of the witness, no other pertinent information. With such a form as that I will be unable to prepare myself for cross-examination. Hence I respectfully request that in the future all requests of that nature sent to me contain all the information and the first name of the witness, and in addition thereto, substantially what they will testify to so that I might be in a position to prepare myself for cross-examination of the witness.

THE PRESIDENT: Defence counsel in the future will observe the rules

concerning applications for witnesses to which counsel for the prosecution has just called attention.

Defense counsel may proceed.

DR. SERVATIUS (Counsel for the Defendant Karl Brandt): I now come to Document Volume Number 2 which deals with the count of the indictment regarding membership in the SS organization which was declared criminal. There are a number of affidavits which I am submitting. First, we have the document KB 30 which I am submitting as Exhibit No. 20. It is an affidavit made by Adjutant of the Reichsfuehrer SS Himmler with the name of Grothmann. From 1940 until 1945 he was Himmler's Adjutant. He states the following:

"1. Professor Dr. Karl Brandt did not belong to the staff of the Reichsfuehrer SS at this time." That is, 1940 to 1945.

"2. At this time Professor Dr. Karl Brandt maintained no closer relationship to Himmler.

3. Himmler never hinted at such close relationship with Professor Dr. Karl Brandt in conversations and particularly gave no indications that a medical-technical-contact existed.

4. Professor Dr. Karl Brandt was not Himmler's medical adviser.

5. I do not know of any correspondence between Himmler and Professor Dr. Karl Brandt dealing with medical questions.

6. Professor Dr. Karl Brandt was never invited to conferences or participated in such conferences, which united the higher SS-Fuehrer Corps or parts of it. They were so-called Gruppenfuehrer conferences.

7. Professor Dr. Karl Brandt did not have any official functions within the SS, and thus did not hold an office or an official position."

Signature -- Werner Grothmann"

THE PRESIDENT: What number does this document bear as Dr. Brandt's exhibit?

DR. SERVATIUS: That was Exhibit No. 20.

I now come to document KB 31 which I am offering as Exhibit 21. This is an affidavit made by the Konsistorialrat, Doctor Theology, Eugen Gerstenmaier. Eugen Gerstenmaier was one of the main participants of the 20th of

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July. He is a theologian who worked together with Moltke whose friends were sentenced and executed. I am submitting this affidavit to show what Professor Brandt -- rather I am not submitting it to show what Professor Brandt did but to show that people turned to him, that is to say, that Karl Brandt was considered a person who was not enveloped in extreme ideas but acted according to moral-ethical considerations and of whom it could be expected that he would intervene in an objective manner.

This affidavit is similar to others which I am going to submit and one of the facts relating to it is that it was not asked for and was voluntarily submitted; and therein I see a special value of this affidavit, that is to say, that these people on their own initiative wanted to make these statements.

I am reading a few passages from this affidavit, and I quote: "When I was being tried for high treason by the People's Court because of my direct participation in the coup d'etat of 20 July 1944, my wife, through the mediation of third persons, approached Prof. Dr. Karl Brandt, now a defendant in the Nurnberg doctors' trial, in order to induce him to intervene in my favor at the chief of office in the Reich Security Main Office, SS-Obergruppenfuehrer Mueller. Thereupon, Dr. Brandt promised my wife that he would comply with her request and intercede on my behalf." Further, it is stated that Brandt intervened. I am not going to read all of these statements in detail.

This brings me to the next document, which is KF-32, and which I am submitting as Exhibit 22. This is used as a confirmation of the statements of Gerstenmaier and is an affidavit of his wife, Frau Brigitte Gerstenmaier, who states in detail how this intervention was put into effect. She said that Brandt gained insight into the files of Gerstenmaier and passed on information; and furthermore she said that in many other cases Brandt tried to help.

My client states that the motive of his action in the first place was that of helping people who were ethically unobjectionable and who were of moral and mental superiority. He wanted to help them without any consideration of their political views. This brings me to Document KD-33, which is Exhibit 23. This is an affidavit made by Frau Manci Schacht. That is the wife of the minister Schacht who was acquitted here before the International Military Tribunal. She, too, turned to the defendant Karl Brandt for his assistance; and she, too, confirms the fact that at that time Brandt intervened in favor of Schacht.

This brings me now to Document KD-34, which I am submitting as Exhibit 24. This is an affidavit made by Dr. Julius Meyer-Bookhoff, who, on his own initiative, approached me. This witness denied giving his oath to Hitler; and he

says: "For reasons of conscience I refused to give the oath of unconditional allegiance to Hitler; and my wife in her anxiety turned to Dr. Karl Brandt to ask for help. Prof. Brandt in a letter pledged this help to my wife, giving a promise to look after my case."

The document KB-35 I am offering as Exhibit 25. This is an affidavit of the wife of the witness just mentioned; and she describes in detail how assistance was given at that time. The next document is KB-36; and I am offering this exhibit as Exhibit 26. This is an affidavit from Maria Kellner, who is the Mother Superior of the Franciscan Hospital and who on her own initiative approached me. Her statement is of importance in so far as it shows that Dr. Karl Brandt was not an outspoken Nazi as he is being indicted here. She describes in detail his character and says: "Dr. Brandt was always very friendly towards us and never showed himself to be a Nazi." Further, she says: "Considering his kind disposition towards us Catholic Sisters, I cannot believe that he would consciously commit a criminal act."

I now come to the Document KB-37, which is Exhibit 27. This is an affidavit made by a priest of a Catholic order, Father Unto Sebastian Weih. This Catholic priest approached me and at my request gave me this affidavit in this form. He describes here a meeting with the defendant Brandt at Christmas, 1943; and he says that the defendant Brandt at that time, on Christmas Eve, went to the front dispensary in order to help some of the physicians there and to take their turns. He further states that Karl Brandt intervened in favor of the Sisters of the order, and he said: "I should like to give you a Christmas surprise. I have been able to intervene so that the Sisters can remain in that hospital." The priest told us that there was a high degree of esteem for religious values in Brandt's character and that all the assistants were very much impressed with his stature and that he therefore judged Brandt very favorably.

Then the General Secretary sent a letter to me, asking me to submit it to the Tribunal. This is a letter of a woman physician, Louiza Ermwein, of Muehlhausen, who, as a French woman, was confined in a concentration camp. This letter is addressed to the Tribunal. The witness says that Brandt had

helped her in order to get her out of the concentration camp into a position as a physician. The essential points of this statement are that she thought of turning to the defendant Brandt for help, and that means that she considered him a person who did not belong to the circle who held the extreme SS views. This letter cannot be submitted by me as an affidavit since I have not yet received an answer from the witness. However, I ask you to admit it. The letter is here available in the French language; and I ask the Tribunal to admit it.

THE PRESIDENT: Do I understand that this letter was delivered to the Secretary General of the Tribunal?

DR. SERVATIUS: The General Secretary had this letter handed to me by Lt. Garrett and asked that I translate it and then submit it.

THE PRESIDENT: I also understand that the letter was received without solicitation of any kind; this witness was unknown to counsel, as I understand it?

DR. SERVATIUS: Yes, she was unknown to me.

MR. HARDY: Your Honor, there are three letters in this document book. One is attached to Karl Brandt Exhibit Number 31, one to Karl Brandt Exhibit Number 37, and then this last one which was referred to here. I object to the admissibility of any one of the three of these letters because of the fact that they are not affidavits, they are not statements in due form; they don't bear any semblance to a legal instrument to be admitted into evidence before this Tribunal.

THE PRESIDENT: Referring to the other letters mentioned by counsel for the prosecution, I would ask counsel for the defendant Brandt if these other letters were received by him without solicitation on his part or without his knowledge of the writers.

DR. SERVATIUS: I received these other letters also without my solicitation. The people concerned wrote to me on their own initiative. That is why I attached these letters to the affidavits which I asked for formally. I merely attached these letters in order to show that these people approached me from

their own initiative.

THE PRESIDENT: The letters referred to may be admitted in evidence. The Tribunal will give them whatever weight is deemed proper to place upon them; but they will be received in evidence as exhibits on behalf of defendant Karl Brandt.

DR. SERVATIUS: On page 82 in my document book there is Document KB 24 of Mrs. Schmundt. This concerns the question of euthanasia.

THE PRESIDENT: I do not find that copy of the document.

DR. SERVATIUS: It was submitted as an annex to this document book. If it is not available before the Tribunal, I am not going to read it. I expect a number of other affidavits and statements and I will not be in a position to conclude my evidence entirely since some of the witnesses haven't as yet arrived and I should like to reserve the right to present these matters at a later date.

THE PRESIDENT: You may offer evidence at a later date and the Tribunal will keep all of these cases open for a reasonable time so that the defendant may present evidence which will come in at a later date.

DR. SERVATIUS: Mr. President, then this brings me to the end of the evidence which was prepared in such a manner that I could submit it. I also had another Document Book No. 3 which I handed in for translation last week and it is not yet finished and I think it will be finished during the course of this day, and at a later date I shall come back to that, and if it pleases Your Honors this third book, Mr. President, contains mainly cases of experiments ---

THE PRESIDENT: Counsel may offer evidence at a later date. The Tribunal understands the difficulty under which counsel for both prosecution and defense are laboring in preparing the evidence and the technical rule that all evidence must be presented at one time will be relaxed to allow all parties a chance to offer evidence which is now delayed and which may come at a later date due to the fact that the delay is not due to a fault or neglect of either party.

DR. SERVATIUS: I then provisionally conclude my submission of evidence on behalf of the defendant Karl Brandt.

THE PRESIDENT: The record will so show.

DR. SAUTER: Mr. President, before you start dealing with the next case, I should like to make an application.

We should like to present to you in this courtroom one of the medical

experiments and we should like to have your permission for that. We are concerned with the following matter.

I am speaking in this case for the defendant Dr. Ruff and for the defendant Dr. Romberg, whose defense counsel is prevented from attending here because of a death case. These two defendants are mostly indicted because of the so-called "high altitude" experiments in Dachau.

You will perhaps remember that the prosecution has maintained with reference to these experiments that the high altitude constituted a torture of the experimental subjects; that is, a cruel measure which has to be considered as a crime against humanity. We should like to show you proof to the contrary. Already in my opening statements I pointed out that these defendants are only responsible for a part of the Dachau experiments; namely, for the first part, during which no fatalities or damages to health occurred and we also already have pointed out that these defendants are not responsible for the second part of these experiments, that is, not responsible for the part where fatalities occurred. During that part of the experiments, for which these two defendants are responsible, the so-called high altitude sickness played a part, that is, the conditions where the experimental subject loses consciousness when the air pressure decreases accordingly and when towards the end of the experiment they revive again from this unconscious state and where the prosecution maintains that this constitutes a torture, a cruelty, towards these experimental subjects, and we in this case in this courtroom would like to present to you this experiment in order that you, as judges, can gain a picture of this kind of experiment.

Naturally, gentlemen of the Tribunal, we cannot bring a low pressure chamber into this courtroom but that really is not necessary and for the following reasons:

This entire experiment, including air sickness, can be carried out and presented to you even without this low pressure chamber. For this purpose we only need a few little accessories which can easily be brought into the courtroom; namely, especially an air compression bottle, that is, bottle with compressed air, with a mixture of gas with oxygen and hydrogen. Then we need

normal breathing apparatus for the mouth, as one usually uses in airplanes, and, thirdly, we need a rubber breathing tube. Then we need a cap as used by air crews, then we need a breathing mask as air crews use it. That is all we shall need here in order to present this experiment to you in an orderly manner.

Now the question arises: Who can be considered as an experimental subject here? I would suggest to you that as an experimental subject either the defendant Ruff or the defendant Romberg be used. Both have performed these experiments on numerous occasions, one concerned with the experimental subject and the other one as a person in charge of the performance or experiment. If you consider it necessary, you could have a medical expert present and I am sure that the expert of the prosecution, Dr. Alexander, would be very suitable for he was active in the air force. He knows these experiments and at any rate is at all times available.

The matters about which I have just spoken, that is, the accessories which are necessary for the experiment, could be gained from the Aero Medical Center at Heidelberg without any difficulty. Dr. Ruff knows these accessories are available and I would like to say about the danger, that is, the danger for one of the participant subjects, that danger is entirely out of the question and the entire experiment will only last for ten minutes, that is to say, if the Tribunal attaches value to it, it could be repeated without taking up too much time of the Tribunal.

We attach value to this experiment for the reason that we are here to prove to you and offer a very concrete example as to what the experiment is considered to be and how erroneous it is to make a completely wrong picture of this experiment. We want to show you that this unconscious state, which starts with the experimental subject and which is a completely unconscious state, we want to show you that this unconscious state is a completely harmless affair. The experimental subject, a few moments after the end of the experiment, will regain his full consciousness and the Tribunal can convince itself that the experimental subject will immediately be capable of action, the experimental subject will feel no pain, the experimental subject will

have no after effects of this experiment whatsoever, and really the experimental subject would as a rule not know at all that some such experiment was carried out and that they were in fact unconscious.

If this is demonstrated here before your eyes, then you will convince yourselves, at least as far as the Dachau experiments and as far as Dr. Ruff knew about them, and you will make a completely different and a very objective picture of this affair.

Mr. President, I should like to ask the Tribunal to consider this, my proposal, during the next few days and then let us have their decision, so that perhaps in agreement with Dr. Alexander, perhaps we could prepare this procedure and for this reason, Mr. President, I allowed myself to make this application at this time although the cases of Ruff and Rosenberg may only be expected to come up in a few weeks, and that is all that I have to say to you.

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THE PRESIDENT: Doctor, would it be your purpose to consider these human subjects as voluntary or involuntary experimental subjects? •

DR. SAUTER: This question with reference to these experiments can only be considered in a sound line because if we are concerned with experiments that entail no pain nor any disadvantage for the experimental subjects then, according to my opinion, one could never consider these experiments as crimes against humanity for an unconscious state which is not felt by the experimental subject and because of which he feels no pains whatsoever. This according to our opinion, does not present a crime against humanity but, in my opinion, the question of voluntary nature had to be considered. And, if prisoners at Dachau had known and seen how harmless these experiments were, and I mean the ones Dr. Ruff and Dr. Romberg carried out, then I am sure they had no misgivings whatsoever to put themselves at our disposal because carrying out these experiments constituted no danger whatsoever.

THE PRESIDENT: Can you say that these human experimental subjects whom you want to produce here for demonstration are in the same physical condition that these experimental subjects at Dachau were in?

DR. SAUTER: I cannot say anything in that connection simply because I do not know. These persons, and I mean the ones Dr. Ruff saw when he once visited Dachau, were as far as he could judge in a proper physical condition and were well nourished.

JUDGE SEBRING: If these experiments were permitted would it be your purpose as far as you could to simulate

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conditions at 68,000 feet altitude as charged in the indictment?

DR. SAUTER: Yes, quite. The experiments, even without the chamber, will be carried out in the same manner and in the same conditions as Dr. Ruff carried them out on himself and on his voluntary collaborators as numerous times. The conditions are quite the same and, therefore, the effect will be the same and, therefore, you will convince yourselves that here one could not speak of torture or a crime against humanity. That is something we want to prove to you because we maintain the point

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of view that if the Judges can see something for themselves then they can better understand it.

JUDGE SEBRING: You say it would simulate conditions as they would exist at 68,000 feet altitude as charged in the Indictment?

DR. SAUTER: Absolutely. Absolutely. Exactly the same and the experts will confirm that to you. If that were not the case, gentlemen of the Tribunal, then we would not make such an application. We are only making that application for the purpose because we know that the system will be exactly the same as they are during experiments in that high altitude.

THE PRESIDENT: The Tribunal will take counsel's suggestion under consideration and will advise counsel in a short time as to the ruling of the Tribunal on the matter.

DR. SAUTER: Thank you very much, Mr. President.

MR. McHANEY: I might say just a few words concerning the proposal made by Dr. Sauter. Prosecution objects largely because we don't think it will prove anything. As I understand it, Dr. Sauter proposes simply to show that during the course of altitude sickness, which results during the course of certain low chamber experiments, the experimental subject undergoes no physical pain or suffering. As I understand that, based on the supposition that the experimental person blacks out or loses consciousness within the space of a few seconds of time, I think there is no doubt that such persons do show expressions of pain and reactions of pain, such as screaming, etc. I take it Dr. Sauter is trying to prove that in spite of that the subjects undergo no physical suffering. I think the simple way to take care of such an issue, from the

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point of view of the defense, is to obtain affidavits from properly qualified experts who have conducted and undergone such experiments. Certainly there are American authorities available at Heidelberg Aero Medical Center without the necessity of conducting experiments in this Court Room. Secondly, as the Tribunal itself has observed, both Ruff and Romberg have undergone a large number of high altitude experiments, the result of that being

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they have gained certain altitude tolerance, as I understand it. So, quite clearly, the experimental subjects, I don't think, could be compared with Ruff and Romberg, that is, the experimental subjects actually used at Dachau. Furthermore, while I am not an expert on these matters, I understand the question of pain depends quite largely on the physical condition of the subject. For example; if the experimental subject has a diseased Eustachian tube, which I understand is in the nature of a passage to the middle ear, if that tube is blocked so that the subject is unable to adjust the pressure in the inner ear, to that created externally, then very severe pain is apt to result. Unless defense is prepared to assert and establish that they made examinations on the subjects used at Dachau with respect to the proper functioning of the Eustachian tube I don't see that the demonstration proposed here would really prove at all that the subjects they used there did not suffer. I object to the above because of the cumbersome and unnecessary manner in which to prove a relatively simple issue since in either case the answer to the question of pain and suffering is based on a number of assumptions, namely, physical condition of the subject and the circumstances under which they were carried out. Moreover, I would be quite at a loss myself to understand what was happening during the course of the experiment and to interpret it and I believe it would be better to have an expert do that for the Tribunal. For example, if Dr. Ruff suddenly let out a piercing scream I would assume he was suffering pain. However, after the experiment is over he contends he was in an unconscious state and didn't feel a thing and the screaming was completely involuntary. Those are all ques-

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tions which could better be determined by an expert than by the demonstration which has been suggested.

DR. SAUTER: Mr. President, may I just make a few short remarks on that question. A number of collaborators of Dr. Ruff have already submitted affidavits to us. Mostly they were made from their own initiative, not at our request. At the proper time I shall submit these affidavits. Naturally we have no objection whatsoever that an expert, for instance

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somebody from Heidelberg, would be consulted on that question. On my own part I asked two American scientists who were active at Heidelberg to answer questionnaires. Unfortunately, I have not yet received them. The Prosecution attaches a special importance to the physical condition of the experimental subjects and, as an example, states that an experimental subject....

THE PRESIDENT: Counsel, I think the Tribunal understands counsel's position in the matter without further enlargement on the subject. I do not think further argument or statement on the part of counsel will enlighten the Tribunal any further as to the matter which counsel has already stated which will be given due consideration by the Tribunal.

DR. SAUTER: Very well. Thank you very much.

DR. NELTE: (Counsel for the defendant Handloser): Mr. President, Gentlemen of the Tribunal, before I start my submission of evidence, I should like to say the following and ask for your decision: During the session of the 31st of January, Mr. McHaney, prompted by the High Tribunal, declared himself very kindly ready to compile facts and evidence in trial briefs, upon which the Prosecution bases their indictment against the individual defendants. The record of the transcript of the 31st of January, unfortunately, is not available to me. However, the Tribunal will remember this event and will also remember the promise that up to Monday, that is the beginning of Brandt's submission of evidence, all the trial briefs against Brandt would be submitted. Up to this present date I am not yet in possession of such one indictment against the defendant Handloser.

It is the first privilege of a defendant and an urgent prerequisite for his defense that he knows against what concrete assertions he has to defend himself. The indictment against Professor Handloser is based upon the responsibility which arises or which should arise from his official positions. The Tribunal and the Prosecution are aware, from my opening statement, that there are no concrete facts available against the defendant Handloser. I have endeavored from documents, testimony, witnesses, and the presentation of the prosecution, to find out how and because of what facts the possibility would arise that a responsibility could occur in connection with his position as Chief of the Medical Services. In spite of hard labor I did not succeed in finding out any such possible relationship from these facts. The prosecution passed the indictment against the defendant Handloser or, rather, withdrew the indictment against the defendant Handloser on account of high altitude experiments. In order to clarify this matter I should like to point out that there is a case which is even much clearer than the case of high altitude experiments and that is the case of the malaria experiments.

The defendant Handloser is now before the beginning of submission of evidence on his behalf and I do not know what I am to ask him on the witness stand and what individual points he is to speak about and I should therefore be grateful if the prosecution would state whether, for instance, they maintain the indictment against the defendant Handloser on the participation and particular responsibility of malaria experiments. If yes, I should like to ask you to urge the prosecution to give us the concrete facts on which it bases this responsibility. If, on the other hand, the prosecution will not comply with this procedure, I would be forced to request the Tribunal for a decision that the indictment against Professor Handloser, because of participation and personal responsibility on malaria experiments, be withdrawn.

MR. MC HANEY: May it please the Tribunal. I would like again to point out to defense counsel that there is no question in this case of dismissing any count or any paragraph in the indictment. Handloser has been charged, as have all the defendants, with participating in medical experiments upon involuntary human subjects, which experiments resulted in murders, tortures, inhumane treatment, etc., which constitute war crimes and crimes against humanity. By way of example we cited:

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certain specific experiments and alleged in one instance or another that the particular defendant was concerned with those. I do not think it is incumbent upon the prosecution to now go through and produce precisely for the benefit of defense counsel, its evidence on each such particularized experiment. The count stands if we make proof on one experiment as particularized in the indictment. Now, as a matter of fact, we have tried to simplify the issue and to eliminate from consideration certain experiments on the part of some of the defendants. We have not chosen to dismiss the malaria experiment or to remove it as an issue against Handloser for the reason that the experiments continued over such a long period of time and were carried on on a rather substantial scale; during the whole period of that time the defendant Handloser was Chief of the Army Medical Service of the Wehrmacht. It is the prosecution's position that by showing a knowledge of medical experiments on involuntary human subjects, plus his position of very substantial responsibility--physician of the head of the medical services of the military sector--that a judgment of guilty can be predicated upon the malaria experiments even though he himself personally did not infect any one of the experimental subjects and the like. In any event, I cannot see that is burdening the defense in any manner whatsoever not to remove the malaria experiments from the indictment as charged against Handloser. The prosecution has certainly not elaborated that point in its presentation against Handloser. I should think that all the defense counsel would have to do is ask him "Do you know anything about it" and "Did you participate in them in any manner whatsoever?" The prosecution will be quite frank with the Tribunal that if his part in the malaria experiments was

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the only thing in the case I should think that we had a very weak case against the defendant Handloser. But for reasons which are satisfactory to the prosecution, we do not find it desirable to remove the malaria experiments as an issue against him. They went on, as I recall, from 1941 until 1945, and were carried out on from upwards of 1200 people, so we don't choose to remove that as an issue now. I don't see that it is any burden to the defendant and I don't think that there is any requirement that we treat it

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as a motion to dismiss, because there is other substantial evidence concerning the defendant Handloser's participation in medical experiments on involuntary subjects, which is the charge in Paragraph 6 of Count Two and it is not to be expected that the particular setup in the sub-paragraph are to be divided up and viewed as anything in the nature of separate counts or separate charges. Those are simply particulars which we gave.

The Prosecution is sorry that we have been unable to prepare briefs on each individual as we had hoped to do. The Tribunal will understand that we have 3 attorneys working on this case and 2 of us are in court substantially all day so it is rather much of a burden, in addition, to get up anything in the nature of a well prepared brief. We will do that as fast as we can but it is not moving as rapidly as we hoped. But I ask that defense counsel for Handloser expedite matters and proceed with his case. I do not think he is being imposed upon in any way.

THE PRESIDENT: The motion of defendant Handloser to dismiss the specification in connection with the malaria experiments is denied without prejudice for renewing the motion at the close of the case when such motions may be made and considered in the light of all the evidence.

DR. NELTE: Mr. President, I have yet another complaint. Yesterday morning the marshal gave me a list of the witnesses whom I named and who were approved by the High Tribunal. On that list were the names of Schmidt-Bruecken and Hartleben, and it was stated there that they were in prison. I asked that these two witnesses come to me last night for a conference. The security officer stated to me that after he had telephoned the prison office he was told that neither of the witnesses

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were in the prison. I must assume that the official reports of the marshal are correct and I should ask for the assistance of the Tribunal in placing these two witnesses at my disposal so that I be in a position to speak to them before they appear on the witness stand.

THE PRESIDENT: The Tribunal will do anything it can to procure counsel consultation with the witnesses. The Tribunal has no information concerning the matter. If counsel will request the Defendants Information Center to procure possible information as to the whereabouts of the witnesses, the matter will be given consideration at the earliest possible date.

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Court No. 1

BY DR. MELTZ:

I now start the submission of evidence on behalf of the former Chief of the Medical Services of the Armed Forces, the last Army Medical Inspector and Army Physician, Professor Dr. Handloser. He is not indicted because of crimes of euthanasia, sterilization, experiments with poison gas, with poison, high altitude experiments, incendiary bomb experiments or anthropological experiments of the skeleton collection. Further, he is not indicted because of murdering tuberculosis afflicted Poles and many other facts.

I shall confine myself to the individual facts, as stated in the indictment and I shall not touch upon those points in regard to which no individual indictment is raised. Although Mr. McHoney, if I understand him correctly, stated that if the indictment is maintained on all counts, even the prosecution does not want to maintain expressly a participation of responsibility in the individual counts.

Mr. President, I want you to permit me to call the witness, Professor Dr. Handloser to the witness stand.

THE PRESIDENT: The defendant, Siegfried Handloser, will take the witness stand.

DR. HELKE: Mr. President, I submit three Document books.

THE PRESIDENT: He will first be sworn.

SIEGFRIED HANDLOSER, a witness, took the stand and testified as follows:

BY JUDGE SEHRING:

Q What is your name?

A Siegfried Handloser.

Q Will you repeat this oath after me?

I swear by God, the Almighty and Omnipotent, that I will speak the pure truth and will withhold and conceal nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. HELKE:

Q Mr. President, I have submitted three document books and I should like to submit them before the Tribunal. Two document books are ready this morning and I believe they are available before the Tribunal. I need these document books during the examination of the defendant Handloser, because I am going to quote from these documents during the course of his examination and I shall submit them to you, with your approval.

Professor Handloser, give us your first and last name for the record.

A. Siegfried Handloser.

Q When and where were you born?

4. I was born on 25 March 1885 in Konstanz near Bodensee.

Q Would you please tell us about your educational career up to the time of your real study?

4. From 1890 until 1894 I visited the Elementary School in Konstanz. In the autumn of 1894 I went to the Humanist Secondary school in Konstanz, which I visited up to March 1903. In March 1903 I made my matriculation.

Q Why did you study medicine?

During the last years of my period at the Secondary School, I spent my vacation, which lasted for three months with my Swiss relatives in Geneva; a brother of my mother was there who was a man and a physician with repute and was very much respected. He took a great interest in me and I had subsequent occasion to receive a very deep insight into his medical activities; in his relations to his patients and in his conception about his profession. This was the fact which influenced me during the last year of my period at the Secondary school. Next of all, because of his love for his profession, I made the decision to become a doctor too. My home town Konstanz was a very little town with about 20,000 inhabitants. Because of its location, however, and because of its vicinity to Switzerland and because of the large amount of tourists from abroad, it was an extremely lively city.

The regiment stationed there with 1,200 men played a special part in this city. During the years of 1900 up to 1903 three specially skilled military medical officers were stationed there; one in turn who was the chief physician of the army hospital and there was one ear specialist and one eye specialist who had previously a very extensive civilian practice along with their military duties. In addition, there was a son of the Battalion Commander, who was also a military medical officer, who had visited the Military Medical Academy in Berlin. All of these circumstances, especially after conferences and discussions with these gentlemen, led to the result that they advised me to make an experiment - rather not

make an experiment, but try to gain admission to the famous Medical Academy in Berlin. This was extremely difficult, because there was a great demand for admission and about three hundred applications were made for about thirty vacancies which were there per year. However, I was successful nevertheless to receive an approval and that is how it came about that I started to study at the Academy in Berlin, which at that time held the title of Kaiser Wilhelm Academy. I was admitted there as a student at the Berlin University in 1903.

Q Tell us about your development as a physician.

THE PRESIDENT: Before proceeding, the Tribunal will take its morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. MEYER:

Q The last question which I asked was your further development as a physician.

A In 1906 I took the preliminary examination. In October, 1908 I became an Unterarzt, and until October 1909 I was an intern in the charity hospital in Berlin. After that I took my medical state examination and then I came to the garrison at Strasbourg. There I served as a doctor in an artillery regiment, and also in a ward in a large hospital.

In 1912, in October, I came to Berlin as battalion doctor. I was in a battalion with dirigibles and another battalion which worked with balloons. At this time I also took my examination as commander of a balloon. In 1914 I became Oberarzt and became corps physician of the guard corps in Berlin, and I went into the first World War in this capacity.

During the World War I was with the corps command as troop physician in a guard regiment, and finally I was chief physician of a medical company. From 1920 to 1923 I was ordered to the Medical University Clinic at Gieesen to be trained as a specialist for internal diseases. After the end of this specialized training I was sent to Ulm where I became head of a big internal medical section of the hospital and was in this capacity from 1923 to 1928.

I was suddenly called to Berlin to the Ministry, to the Army Medical Inspectorate, and there I had to take over the department for the care of the sick for the hospitals and for everything connected with the sick. In 1932, after I had worked in that capacity for four years, I became defense district physician in Stuttgart; that is, I was the chief medical officer in this Wehrkreis. On the 1st of January 1935 I became Generalarzt, and as army group physician I was sent to Dresden. I remained in this position until 1938. At that time I was transferred to Vienna, still as army group physician. In this position, as army group physician and later as army physician, I worked under Field Marshal List. I participated in the campaign in Poland and then in the campaign in France.

In October 1940 our army was sent back to the East, to Krakow, and there on the 5th of November I received an order from Berlin that I was to leave the same day for Berlin since the Army Medical Inspector was sick. On the 6th of November, in Berlin, I talked to Professor Waldmann very briefly. He was leaving immediately for a sanatorium in southern Germany since he was very seriously ill. On the 1st of January 1941 I was appointed his successor and also promoted to Generaloberstabsarzt. From 1941 on I was Army Medical Inspector, and later, Chief of the Wehrmacht Medical Service.

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Q. You had the position of Army physician Heeresarzt?

A. Yes.

Q. What happened after the capitulation?

A. In 1945 until the 21st of April I was near Berlin. I suddenly had to leave this post since the Russians were approaching. I went to the North and came to the area of Flensburg. Field Marshal Keitel was also there with a large part of the OKW. After the capitulation I as well as the rest of the OKW reported to the English staff and work developed since I was very frequently called upon to work out a number of questions.

When the High Command of the Wehrmacht was taken into custody on the 23rd of May, I remained where I had been and was still called on by an English staff to work on further questions. Later an American Army doctor was also added to this staff. This was called the Control Commission OKW North. I did work for this Commission which considered from my point of view was to help to take care of the innumerable wounded and sick, especially of the amputees, and to transfer these people to civilian life.

This was a very close collaboration, and on the 16th of June the American Colonel told me that a German Medical Advisory Staff was to be created of about seven to ten medical officers. I was to make suggestions. I did so, and since a few of my most important associates were in the South of Germany, I suggested that they be called upon.

On the 23rd of June, 1945, the English Colonel Escribitt ordered me to come to the airfield at two o'clock with an escort so that we could fly to the South together to look for these gentlemen there. We left at two o'clock

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and arrived in Munich at three-thirty. We went to the headquarters of the American Army. There the English and American Colonels reported, and then we -- that is, the person accompanying me and I were sent to the prisoner-of-war camp at Pularch near Munich. The Commission -- that is, the two English

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officers and the American officer -- went from there to Thuringen with us because all my material, all my files were there.

When we got there, everything had already been taken away by other commissions and officers. There was nothing left. Then the gentlemen said that we would all come to the district of Kassel to work on a staff, but nothing came of this.

I went from one prisoner-of-war camp to another. Finally on the 21st of September, 1945, I was put in solitary confinement in Oberursel where I remained until the 13th of October. From October to January there was an intermediate period. On the 13th of January 1946, I was sent to a war crime camp near Stuttgart. In August-- that is, eight months later -- I was sent to Dachau, and on the 24th of August I was sent here from Dachau.

Q. You said a while ago that during the big war you were Army Medical Inspector and finally Chief of the Wehrmacht Medical Service?

A. Yes.

Q. Will you first describe your function generally as Army physician?

A. The functions of the Army physician are established precisely in the regulations, especially in the War Medical Regulations.

DR. NELTE: Mr. President, in regard to this decree, for your orientation I should like to submit Document HA-28 as Exhibit 1. It is in the document book 1, Page 41. It deals with the function of the Army physician. I ask that this document be accepted as Exhibit 1. We need not go into this

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Court No. 1

DR. NELTE: In this connection I submit an excerpt from the War
Medical Decree, Document HA-28a, Page 44 of my document book 1
as Exhibit 2.

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A. There was a special decree, the decree of 1942, specifically, and the decree of 1944 with the regulations pertaining to it.

Q. Where was the seat of the various agencies?

A. The seat of the Army Physician was at the Headquarters of the High Command of the Army; that was usually in East Prussia. For six months in 1942, it was in the Ukraine.

The seat of the Army Medical Inspectorate was in Berlin, and the seat of the Chief of the Wehrmacht Medical Service was also in Berlin. Until 1944 it was in the building of the Army Medical Inspectorate; from September 1944 on, it was 50 kilometers from Berlin in a small town.

Q Where were you most of the time?

A Primarily at the Headquarters.

Q What was the relation, from the point of view of the time, between the time spent at Headquarters on the one side and in Berlin on the other side?

A One could say nine tenths of the time at Headquarters, and one-tenth of the time at Berlin. At other times one could say three-quarters of the time at Headquarters, and one-quarter of the time at Berlin.

DR. HELTE: Mr. President, in this connection I submit a table, that is Document H. 29-1, as Exhibit 3. This table has the following significance: You will see there the most important and the longest trips inspection trips, of the defendant Handloser to the various theaters of war, and the time is given as accurately as possible. You will find it in the Document Book 2, page 67. In the case of the defendant Handloser, it is important.

MR. McHENRY: If the Tribunal please, I will not offer an objection to the admissibility of this document if it can be put in without reading or without any discussion with the witness. The Tribunal will note this is nothing more than an affidavit from the witness, stating that he did make these trips. In order to shorten the proceedings, if Doctor Helte is willing to put this in without reading it into the record, and without any questions to the witness, I offer no objections. If he is going to engage in interrogating the witness about these trips or anything of that nature, then I object to its admissibility on the ground it is nothing more than a statement of the witness who is now on the stand.

THE PRESIDENT: Does that refer to Handloser's Document No. 41?

DR. HELTE: Document H. 29-1, Exhibit 3.

For the reasons which Mr. McHenry has just given, I had this table prepared so that I would not have to ask the witness on the stand about his individual trips.

And, I therefore assume that he has no objection to the submission of this document, and I ask you to accept this document. In the case of defendant Handloser, it is important whether he knew of certain events which took place at home, in Berlin. It makes a difference whether some one was continually in Berlin, at his office, or whether he was at the Headquarters of the Army, and at the various theaters of war. This table is to help you to determine the question of what actual possibility there was at various times for Handloser --

THE PRESIDENT: (Interposing) Does the Counsel understand? The Counsel for the Prosecution has no objection to the admissibility of this document in evidence. The Counsel has simply stated that he would suggest that the examination of the witness be limited to refreshing his recollection from this document as to certain matters, and not testifying in detail concerning it. Now the document may be admitted in evidence. You may proceed.

BY DR. MELTZ:

Q I ask you, Professor Handloser, whether this table which you have signed is correct?

A It is correct. I have seen only one mistake in it. That is on page 68, in the year 1944. The meeting in Breslau which has been mentioned frequently here is entered under August; it was not in August, it was in June. That is the only thing that is incorrect.

THE PRESIDENT: The error of the witness may be corrected.

Q Now, before you present your individual functions, I should like to ask you to explain to the Tribunal the terms Medical Sanitageswesen and Sanitagesdienst, which has frequently been used here?

A That is as follows: If the word Sanitagesdienst is used, that means the duties referring primarily to the Medical Service in connection with the troops; that is, the medical tasks which are connected with Military Service, and where the medical superiors are bound to their military superiors; whether that is in the field army or in the home army, it makes no difference. If I use the word Sanitageswesen, then in addition to this Military Service, this is everything which makes possible this Medical Service in the Military Service; that is, all the basic work and duties which make the Medical Service

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in the Army possible at all. And, if I may give an example, something which played a role here, it must be emphasized that research has nothing to do with Sanitätsdienst. Those working in the Sanitätsdienst in the Medical Service have, on the whole, no opportunity to concern themselves with research. However, the basic work of the Sanitätswesen does include research. Concerning the extent and the manners as to how research is connected with medical matters, I might say it is another phase.

Q. Now, will you please tell the Tribunal about your activities as Army Physician?

A. I must make a distinction between the two fields of work here.

MR. Mc HANEY: If the Tribunal please, I think that Doctor Nelte should be admonished to try to keep to the issues of the case. Now we are about to hear a long and detailed exposition on the experiences and functions of Heeresarzt Army Physician. I assume that the defendant once held such a position, but there is nothing in the Indictment, or no issue in this case connected with his activities as the Heeresarzt. We have got an affidavit from the defendant, beginning on page 48 of your Document Book, and it runs to page 52. Pages 45 to 52 all deal with the activities of an Army Physician, and only on page 52 do we begin to hear about the Medical Inspector of the Army. I am perfectly willing to have the defendant explain at length about his activities, duties, and functions, as the Army Medical Inspector, but I do not think there is any necessity to hear any great exposition about his activities as Army Physician with which we

DR. NELTE: Mr. President, I was also of the opinion that the defendant Handloser was not indicted as Heeresarzt, but the prosecution submitted as Document NO-1758 a diary of Halder, or excerpts from it. I do not know the exhibit number. It was handed in late in the proceedings. In this diary Generaloberstabsarzt Handloser is mentioned four times. One time army physician is mentioned. That was Dr. Oberarzt Schreiber.

Q. In what capacity were you, witness, in the headquarters when you reported to Halder?

A. I was connected with him only in my capacity as an army physician.

DR. NELTE: Mr. President, would you ask the prosecution whether Document 1758 is in connection with the defendant Handloser. If they do not intend to draw any conclusions in connection with the indictment, then I am ready to dispense with the discussion of the defendant's position as army physician. If they do not want to do that, then I shall have to insist that this activity of his be discussed here.

MR. MC HANEY: The document about which Dr. Nelte is now having some concern contains certain entries dated August 31, 1941, and thereafter. As I recall, the witness became the army medical inspector on January 1, 1941, or seven months preceding this entry. Be that as it may, we don't draw any criminal inferences from this document. It simply shows that the witness had some interest in August 1941 in typhus problems, a matter which I think he would not deny in any event. So, therefore, I think that we are all probably agreed that it is unnecessary to discuss these activities of the defendant as army physician.

DR. NELTE: Then may I say that as to charges arising against Handloser from Document NO-1758 the prosecution does not want to make any charges on this basis.

Q. Then will you please tell about your activity and your functions, witness, as army medical inspector?

A. To explain the contrast between the activity of the army physician and the army medical inspector, I must say something quite briefly about the army physician. In the field he had a small staff. His activity was limited

entirely to taking care of the fighting troops and was directed to a large extent by military viewpoints. In contrast to this the activity of the army medical inspector was more of a ministerial nature, I should like to say, as far as it did not refer to the practical care of the sick and the wounded in hospitals at home and as far as it did not refer to the medical care of the troops of the replacement army at home. The activity of the army physician required quick decisions and it was free of all ballast. The army medical inspector had to deal with big problems. He had to create the foundation for everything which the troops needed in the field and at home. Consequently, the army medical inspector had a big staff. He had to deal with the personal data of all medical officers, with organizational questions, with questions of science and the care of health, with supplying the injured and wounded, with the medical care of the prisoners of war, with all the volunteer medical help, and with all the transport system for the sick and wounded as far as it was carried on on land. The army medical inspector was also compelled to maintain numerous connections and contacts with other authorities or institutes or organizations at home, which were absolutely necessary in carrying out his duties.

DR. NEUTE: Mr. President, Mr. McHaney has already pointed this out. I have a work of the defendant Handloser, HA-29, Document Book 1, page 48. This work contains the sphere of work and the meeting of the heads of the medical service of the army and the Wehrmacht. I submitted this work in order when examining the witness on the stand to save time and also to help you by a detailed exposition to judge the functions of the defendant as Heeresarzt, as army medical inspector, and as chief of the Wehrmacht medical service, as well as the methods of work in these agencies. Even if the defendant is not indicted as Heeresarzt, as army physician, he held this position and this activity took a great deal of his time and his efforts and therefore I ask that these parts of this document also be considered because only through them can you gain a true picture of the total activity of Professor Handloser, a knowledge which is important in judging the further questions as to what extent he had opportunities to learn of certain things or not. I ask that

this document be accepted as Exhibit 4.

MR. MC HANEY: The prosecution as with the preceding document will make no objection, with the understanding that the general statement of the witness which he has just given about his functions as army medical inspector, will suffice and that no more questions be put to him. I would ask, if that is satisfactory to Dr. Nelte, that he now put a general question to him about his activities as chief of the medical services of the Wehrmacht and let him answer that and then admit the affidavit because it also deals with his activities as chief of the medical services of the Wehrmacht.

THE PRESIDENT: Counsel for the defendant is referring to Document HA-29 on page 48, Handloser Document Book 1. Is that correct?

DR. NELTE: Yes.

THE PRESIDENT: The document may be admitted in evidence. That will be Handloser Exhibit 4.

Q. As to your function as chief of the Wehrmacht medical services, we must spend a little more time. For the statement which you must make, I will have shown to you Document NO-080 of the prosecution, Exhibit 5 of the prosecution, in Document Book 1, page 10; also Prosecution Document NO-227, Exhibit 6 of Document Book 1, page 18.

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You will also receive your diagram, to which you have sworn, on the Medical Service of the Wehrmacht. Before you explain your functions as Chief of the Wehrmacht Medical Service I must point out to you that the Prosecution alleges that in your capacity as Chief of the Wehrmacht Medical Service you had authority and supervision of the Medical Services of all three branches of the Wehrmacht. This is quoted from the speech of General Taylor, page 61 of the Transcript. General Taylor also says since the SS developed to an important part of the German Armed Forces, Handloser's supervision also applied to the defendant, Genzken, Chief of the Medical Service of the Waffen SS.

Furthermore, the Prosecution in a document which is not an exhibit, but which was given to the Tribunal, it says: Basic facts about the German State Health System, the Prosecution says the following about this:

"By a decree of 1942 Hitler appointed defendant Handloser, Chief of the Medical Service of the Wehrmacht. In this capacity he coordinated and supervised the activity on the Health Services of all three branches of the Wehrmacht, as well as of the Waffen SS. In this way he became the Supreme Health Officer in the military field as Conti was in the civilian sector."

Now, will you please comment on these decrees here, the decree of 1942, and the decree of 1944?

A. As far as the history of the origin of the Chief of the Medical Service of the Wehrmacht is concerned, Professor Brandt has already testified. I can only confirm his statements and I should like to repeat briefly that the occasion for the creation of the Chief of the Wehrmacht Medical Service was the

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emergency in the winter of 1941-1942. The decree of 1942:
In this decree I must emphasize the introductory sentence,
which reads: "The utilization of personnel and material in
the field of the Medical and Health matters takes a coordinat-
ed and planned direction."

Under No. 1 it is also said: "That the Army Medical
Inspectorate as Chief of the Wehrmacht Medical Services is
coordinating all tasks common to the Medical Service of the
Wehrmacht." and so forth.

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The emphasis was definitely on the personnel and material tasks, and for the sake of completeness one should really have added that in addition to personnel and material questions, there was above all the just distribution of the accommodations for the wounded and sick. This is no doubt included in the concept of material in connection with this decree.

I should also like to emphasize that I did not participate in its final composition. That was done by the OKW and many things were changed from the draft which I had submitted. Thus, for example, I had not requested that I should have a Chief of Staff from the Luftwaffe and an associate from the Navy. My application was that the Army Medical Inspector will be given the tasks of a Chief of the Wehrmacht Medical Services, his working staff for the Army Medical Inspectorate. It did not do me any good to have this Chief of Staff and this man from the Navy who were in no position when the tasks of all parts of the Wehrmacht were coordinated to do any comprehensive work here. In effect, they primarily made the work more difficult since there were thus two Chiefs of Staff, one from the Army Medical Inspectorate and one of the Chief of the Wehrmacht Medical Service. On the side of the Army Medical Inspectorate there were all of them workers. On the side of the Chief of the Wehrmacht, Medical Service or his Chief of Staff there was only one person, a medical officer from the Navy. I emphasize this because it forms the basis for further considerations. Now, if it is a question of which work the new chief of the Wehrmacht Medical Service attacked first, this developed from two points of view, first, urgency, and second, the point of least resistance. One must understand that it is very difficult with a newly created

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agency to incorporate one's self into the activities of the old branches of the Wehrmacht. Consequently, the first things that were undertaken are work dealing with personnel and the commitment of personnel.

The winter of 1941 - 1942 was not only the occasion but also a very good example. The material work, that was the field where there was the least difficulty and least opposition to be expected, but in this field too, as can be proved, it took one year until we had more or less accomplished what had been demanded of the Chief of the Wehrmacht Medical Service.

I must at this point describe the relation with the various branches of the Wehrmacht. I shall skip the Waffen SS, because it was not very important. We have heard that in the year 1942 when the Chief of the Wehrmacht Medical Service was established the Waffen SS had about four divisions. At the end of the war it had thirty or thirty-six and since the Chief of the Wehrmacht Medical Service dealt only with the front divisions, that is the four divisions of the Waffen SS, this had no important role in the framework of the whole thing, but it was soon shown that the Waffen SS insisted strictly that the Chief of the Wehrmacht Medical Service was competent only concerning those divisions of the Waffen SS which were committed to the Wehrmacht. They refused any interference beyond those divisions. Nothing was changed in this relationship when the number of divisions of the Waffen SS increased in the course of the years. What was the greatest burden to the Chief of the Wehrmacht Medical Service in the following time was the circumstance that the Waffen SS always approached the Chief of the Wehrmacht Medical Service with demands. This referred primarily to doctors, but also dentists and other personnel. The Chief of the Wehrmacht Medical Service was in no position to decide whether he should let them have their personnel or not. The demand was made with the explanation that the Fuehrer has ordered so and so many divisions to be set up, and has at the same time issued the order that the Chief of the Wehrmacht Medical Service is to make the necessary personnel available.

THE PRESIDENT: It is time for the Court to recess.

The Tribunal will recess until one-thirty o'clock.

(A recess was taken until 1330 hours)

CORRECTED COPY

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 11 February 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Before proceeding with the evidence, counsel, the Tribunal desires to read a statement, an amendment to Rules of Procedure for Military Tribunal I, 10 February 1947.

"In all cases where persons are detained in the Nurnberg jail and who have been approved by Military Tribunal as witnesses for the defense, it is hereby ordered that after the date of such approval by Military Tribunal the following procedure shall be followed in the interview or interrogation of such witness or witnesses by either counsel for Prosecution or Defense:

1. Counsel desiring to interview such witness shall petition the Tribunal in writing, stating in general the scope and subject matter of such interview.

2. The Tribunal shall thereupon appoint an impartial commissioner to represent Tribunal at such interview to the end that it shall be orderly, proper, and judicial in character and within the scope of the petition filed and to the further end that there shall be no attempt to harass, intimidate, or improperly influence the witness in giving his answer.

3. Whenever such a witness is being interviewed or interrogated in the presence of such commissioner by counsel for either side, counsel for the other side shall not be entitled to be present.

4. If in the course of such interview it shall appear to such commissioner that the proper scope of such interview, as set forth in the petition therefore, is being exceeded by the counsel conducting such interview or that it is in any other manner being improperly conducted, said commissioner shall on behalf of the Tribunal stop said interview.

5. In such event said commissioner shall report in writing to the

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Tribunal the substantial and significant facts in relation to such interview and his reasons for having stopped the same.

6. Counsel conducting such interview may, if he so desires, promptly bring before the Tribunal in writing, after giving notice to opposing counsel, his objections, if any, to the action of the commissioner, whereupon the presiding judge of the Tribunal shall either confirm the action of the

commissioner or direct the interview of the witness to proceed with such directions or limitations as he may order.

7. In any appeal to the Tribunal from such act of the commissioner, counsel so appealing shall state the name of the witness, the name of the defendant whom he represents, and the title of the cause in which he is acting as counsel.

8. The above procedure shall not be interpreted as in effect in cases, a) where the witness or prospective witness has been procured by the Prosecution but has not been approved by the Tribunal as a witness for the defense, or b) where the witness for the defense has been procured as such by the defense and voluntarily appears without being confined in the Nurnberg jail."

The Tribunal understands that this procedure has been previously discussed with counsel for the Prosecution and with counsel for the Defense and has been found satisfactory to both counsels.

I will file this original with the Secretary General to be noted in the record. Translations will be furnished defense counsel.

I will also file with the Secretary General the doctor's statement that the defendant Oberhauser should be excused on account of illness.

Counsel may proceed with examination of the witness.

DR. NIELTE: Mr. President, with reference to the ruling of the High Tribunal which was just read, I should like to ask that defense counsel be permitted to make a statement after having read this ruling. The translation was not such that we can at the moment survey the far reaching effects of that ruling. I hope that the High Tribunal will permit us to present eventual considerations which would be in the interest of the proceedings, if such suggestion can be made.

THE PRESIDENT: Counsel for defense may make any presentation to the Tribunal that they may desire in connection with this ruling. Anything they may present will be considered by the Tribunal.

DR. NELTE: I thank you very much.

SIEGFRIED HANDLOSER - Resumed

DIRECT EXAMINATION (Continued)

BY DR. NELTE:

Q.- Witness, when ending the morning session you were speaking about
the

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relationship of the Chief of the Armed Forces Medical Service to the Waffen-SS. Would you please continue that part of your statement?

A.- I was saying before that the ruling regarding personnel in the Waffen-SS was most in reference to distribution of personnel to other parts of the Armed Forces. With reference to the settlement regarding material the matter was such; the Chief of the Armed Forces Medical Service had a central agency. This central agency was at the main medical office. This department had the task to cover the entire need of medical equipment for the Armed Forces and order it from a central agency and distribute it according to the strength of the respective Wehrmacht branch.

In the case of the Waffen SS difficulties resulted in that connection. It was because only a small part of the Waffen SS was subordinated to the Wehrmacht, while other parts, and that includes the police which belonged to the Reich Physician SS, had nothing whatever to do with the Wehrmacht. Whereas it was possible with the Army, Navy and Air Force to control their needs exactly and establish it, such a procedure was not possible in the case of the SS, that is the Reichsarzt SS. The Reichsarzt SS not only had to cover needs for the Waffen SS but also for other parts of the SS, including the police. At no time, not even 1944, was it possible to exercise an exact control and an exact distribution in connection with the SS. The SS quite clearly refused any such interference and even in the year of 1944 rejected making reports to the Chief of the Wehrmacht Medical Offices about the state of their equipment. They gave as the reason that the Reichsfuehrer SS had an authority from the Fuehrer, according to which his equipment and his orders were only a matter for the Reichsfuehrer SS to decide. In this manner there was no control exercised with reference to the Waffen SS and there was no such task in connection with material distribution and steering of such distribution.

I now come to the Navy.

Q.- Before you continue, I should like to speak, Mr. President, about the relationship of the Chief of the Armed Forces Medical Services to the Waffen SS and in that connection I should like to submit two affidavits. One affidavit made by the co-defendant, Professor Dr. Bru-gowsky, which is Document HA 17 in Document Book 2, page 28, and furthermore the affidavit of the defendant Dr. Genzken as Document HA 16 in Document Book 2, page 27. Both these affidavits are dealing with the relationship of the Chief of the Armed Forces Medical services to the Waffen SS and I think it is necessary to submit these affidavits in that connection since this will simplify the procedure and will confine

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it to the complexes and thereby the proceedings will be shortened. I ask for permission to offer these affidavits as Exhibits 5 and 6 to the High Tribunal.

THE PRESIDENT: Which affidavit does counsel offer as Exhibit 5?

DR. NELTE: HA 17, Document Book No. 2, page 28. Exhibit 6 will be

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Document HA 16 in Document Book No. 2, page 27.

Mr. McHANEY: If the Tribunal please, it seems to the prosecution that instead of shortening the case of the defendant Handloser, it is apt to prolong it considerably by this procedure of bringing in all of the evidence while the witness Handloser is on the stand and calling for his comment on each affidavit and other document which is going in. Now we have here two affidavits, one from Mrugowsky and one from Genzken, concerning the relationship of the Chief of the Medical Services of the Wehrmacht to the Waffen SS. I don't understand the order of proof in bringing these documents, which are quite unrelated to the testimony of this witness, into the proceeding while he is testifying. I don't have any particular objection to the admissibility of the documents themselves. It is more a question of order of proof. I think we would get along much faster if he would proceed to interrogate the witness, release him for cross-examination, and then put in his other documents.

DR. NELTE: I believe that Mr. McHaney is right and that it is a question of the expediency of the submission of evidence. I think it would be more expedient if a certain complex of questions is concluded while submitting evidence. I don't think it is advisable to let the defendant speak first and then submit affidavits when submitting documents. I think that the Tribunal will gain a much better picture about this certain complex of questions when it at the same time takes judicial notice of the documents rather than after the examination of the defendant is concluded. I think this is a question of expediency and I think that the procedure as I adopt it is in accordance with expediency.

Mr. McHANEY: I would ask the Tribunal to request Dr. Nolte to state whether or not he now plans to read these affidavits into the record during the course of the interrogation of this witness and, further, whether he intends to direct any questions to the witness Handloser, based upon matters which are stated in these affidavits.

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Dr. NELTE; I merely wanted to submit and present these affidavits and should like to emphasize the most essential points and then leave it to the prosecution to put any questions they may desire in connection with that

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document.

THE PRESIDENT: Counsel for defendant may proceed according to the plan which he has outlined, for the present at least.

BY DR. NELTE:

Exhibit 5 is an affidavit of the co-defendant, Professor Krugowsky. It refers to the chart which he himself handed to the prosecution and which was submitted to the High Tribunal. He says:

"In the pamphlet known as 'Basic Facts about the German State Health System' which was submitted to the Tribunal by the Prosecution it appears as if the Chief of the Wehrmacht Medical Service, Professor Handloser, had directed and supervised the Medical Service of the Waffen SS.

"I have to state the following: Basically and generally, the Medical Service of the Waffen SS was not subordinate to the Chief of the Wehrmacht Medical Service. There was only limited supervision by him, which extended only to the Medical Service of the front divisions of the Waffen SS when in action with the Wehrmacht. The Waffen SS trained and obtained the necessary medical personnel independently. The Chief of the Wehrmacht Medical Service did not have any authority over the medical personnel. Only units of the Waffen SS in actual combat service were subordinated to the Wehrmacht. Therefore, this subordination was only temporary and within the framework of the consequent necessities.

"As soon as the units of the Waffen SS were withdrawn from the combat area, the temporary subordination and supervision ceased, just as it did when wounded or sick SS men were transferred to rear echelons. The Waffen SS saw to it that its men were sent to its own hospitals. The Waffen SS was independent in establishing new units, as far as medical supplies were concerned, just as in the case of personnel. The Chief of the Wehrmacht Medical Service did not have any authority over this.

"The connections of the Chief of the Wehrmacht Medical Service to the Medical Service of the Waffen SS were therefore very limited. There

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was no official connection with the medical research institutes of the
Waffen SS and the SS.

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"The Institute for Typhus and Virus Research at Bucherwald, which was subordinated to me, did not have any official connection with the Chief of the Wehrmacht Medical Service or the Army Medical Inspectorate. It was neither subordinated to, nor was there any supervision by, the Chief of the Wehrmacht Medical Service."

Dr. Genzken, in Exhibit 6, confirmed this statement in its entirety as being correct and true.

Now, Professor, I ask you to continue describing the relationship of the Chief of the Wehrmacht Medical Service to the various branches of the Armed forces.

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A.- I now come to the Navy. The Navy was an armed unit with special tasks and they always led a special existence. Even in peace time there were only limited connections between the Army and Navy. As closed as the Navy always was, it continued to be that way toward the Chief of the Wehrmacht Medical Service. It strictly observed its jurisdiction and whenever it was possible, they rejected, through their Supreme Commander, any interference or insight of the Chief of the Armed Forces Medical Service, giving the reason that he was only there for the purpose of coordinating mutual tasks, but not in order to interfere with the special tasks and special sphere of the Navy.

Concerning the number of medical officers, the Chief of the Wehrmacht Medical Service was fully aware that he could not decree the number of medical officers who were in the Navy.

The Navy during this war, in addition to their tasks at sea, that is within the so-called floating units, had a number of tasks on land, which it had to take over; to that one has to count the anti-aircraft system of the entire western coast starting from Norway down to Spain.

The needs of the Navy on medical equipment materially differed to such an extent from the equipment that was needed by the Army that even here a coordination was hardly possible; that meant that the possibility of exercising influence by the Chief of the Wehrmacht Medical Service on the Navy remained very small.

I now come to the Air Force.....

Q.- I should like to interrupt you here. You are speaking about the actual facts, which made it impossible to coordinate mutual tasks of the Navy and the other Armed Forces Branches, but I do think the High Tribunal will be interested in knowing whether on the basis of that decree of 1942, you had the authority to assume that authority whenever the occasion arose.

The Prosecution maintains on the basis of that decree of 1942 you

had the obligation to assume authority and exercise control and had you not done so, under circumstances, one could say that you neglected to be aware of your tasks and exercise supervisory powers in such a manner as your responsibilities should have required.

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Now, will you say something about how the authority has to be interpreted on the basis of that decree; the first thing, of course, is the authority to issue orders?

A.- The Chief of the Wehrmacht Medical Service, on the basis of the decree of 1942, did not in any passage receive the authority to issue orders and it was not expressed in any passage; just as little was it expressed that he had the authority or the duty to exercise supervisory functions. On the other hand, I interpreted the decree of 1942 as it was thought and that was on the basis of its formulation that in the field of coordination and adjustment of personnel and equipment, I had the duty to do everything possible for the purpose of salvaging in order to make a just coordination; that is for the purpose of saving material and equipment. That did not present any difficulties with the Army, Navy and Air Forces and I concluded that the introductory words of the decree of 1942; namely, the leading of personnel and material direction into the various branches of the armed forces had to be interpreted in such a way as I did.

The armed forces branches would never have given the right to the Chief of the Armed Forces Medical Service to exercise any control in their medical service or any supervision. This was never expressed. It was never said that this decree could be interpreted as an authority to issue orders.

In addition, I should like to state quite basically that it was not at all intended to completely leave out the various medical services of the armed forces branches or to interfere in their independent rights. That actually never took place. Just as little as it was never intended to create such a situation when introducing the Commissioner General and thereby cut down the jurisdiction of the Chief of the Medical Service of the Armed Forces.

Q.- Did you at any time inspect an institute of the Navy; and you know there was such an institute in Tuebingen?

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A.- In Tübingen there was the Medical Academy of the Navy. I never inspected it; I never was even there.

Q.- Now, will you please continue and speak about the relationship of the Chief of the Medical Service of the Armed Forces with the Luftwaffe?

A.- The Air Force was a young army. At the head of the Air Force was

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Goering. The Air Force when it was first created could, with right, exploit everything that was available and Goering did everything to further that. In connection with the Luftwaffe, we granted that right to the Luftwaffe and by saying we, I mean the Army. There was no one in the Army who was not of the opinion that the Air Force had to be equipped better than the army in every sphere. In peace time and during the building up of the Luftwaffe, that was quite understandable, but after the Army had to bear the main burden during the war and that quite obviously appeared to be possible; that this difference in equipment could not be maintained. Therefore, it was quite clear to the Air Force that a Chief of the Armed Forces Medical Service could have not other task, that he interfered with the medical equipment of the Air Force in favor of the Army. It is quite understandable that the Air Force defended itself against that procedure as well and as long as it could, but because of the events in the winter of 1941 and 1942 the relationship of the position of the various armies had become so obvious and the Air Force was in a position to transfer about one hundred of their medical officers to the army. That made it clear that further interference with the Luftwaffe would be possible. As Chief of the Medical Services of the Armed Forces, handled this matter in such a way and we came to some agreement in that connection.

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The material coordination and the stoppage of the supply channels to the Luftwaffe made no difficulties whatsoever. However, what rightly was considered by the Luftwaffe as their property were the tasks and the work which was in connection with special affairs of the air forces and in connection with our field, aviation medicine. I, and the former medical chief of the air force and the last medical chief of the air force, Schroeder, never had any doubt that aviation medicine and its research was a special sphere which could not form within the coordination of other tasks and could not be coordinated by the Chief of the Armed Forces Medical Service. The same was true in the case of medical research work of the Navy, which often had to specialize in hygienic and special medical research with reference to things peculiar to the Navy. I refer to U-Boat Hygiene, and whatever else may be in connection with the service of the Navy at sea. There was never any quarrel about that, because from the very beginning there was a clear differentiation made.

Q.- Does that conclude your description and report with reference to your jurisdiction on the basis of the decree of 1942?

A.- I have yet to mention the Army. In the case of the Army, the relationships were very simple, since at the same time I was at the head of the Medical Service of the Army. All armed forces branches know exactly that the Army could not give any of their bases away, but rather that they had to receive some more, and I should like to say something in that connection in order to clarify the situation. At some point the prosecution put the question to a witness, "how the numerical relationship between the Army and the other armed forces branches were, whether air force and Navy together were larger than the Army" and for that reason I should like to speak about these numbers in round figures. I, as Army Medical Inspector, that is during the war years of 1942 to 1944, in agreement with OKW, had to deal with the standart figure of the Army of 10 million, and that was the basis on which I planned. The strength of the Air

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Force amounted at its peak to around two million. That was a fifth of the strength of the Army. The Navy probably never exceeded one-half or one-fourth of a million. From that one can see clearly that the Air Force in relationship to the Army was one-fourth to three-fourths, — rather one-fifth to four-fifths.

Q.- May I now summarize your jurisdiction on the basis of the decree of 1942, first with reference to the Wehrmach Branch and the Waffen SS, on the basis of the decree of 1942 as Chief of the Medical Services, you had not authority, is that correct?

A.- Yes, that is correct.

Q.- As far as a coordination of mutual spheres of work was striven for you and reached, you had a technical right of giving directions and exercising controls, is that correct?

A.- Yes.

Q.- Thirdly, the research system did not belong to this sphere, that is Figure 1 of the decree of 1942?

A.- No, not the research system, only medical measures which could be adapted to a coordination. If I can give you an example, the common vaccinations which had to be carried through on the Army. That is the best value available for the necessity of such a coordination. For in special parts of the front, where for instance the Army, Navy and Air Force were working along side of one another, and were committed together the type of inoculation as well as the time of inoculation, or a prevention, for instance in the case of malaria, differs in the case of all the three Wehrmacht Branches. Of course, that was such a situation which could not last.

Q.- It is clear that the prosecution did not consider that sphere of research system, and I am referring to what you have just mentioned which was coordination in reference to inoculation with proven vaccines. Fourth, I want to say something regarding other medical service of the Waffen SS; there was only a technical right of giving directives for troops who were located at the front, and during the time of combat, is that correct?

A.- With reference to front territory, there was clearly a technical subordination. One has to imagine that these divisions were first

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subordinated to the Corps Commander, the Corps Commander to the Army Commander, the Army Commander to the Troop Commander and the Troop Commander to the Supreme Commander of the Army. In the same way the subordination of a Division Physician of such a system was carried through, that is Corps Army Physician, Troop

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Army Physician, Army Physician and Army Medical Inspector. There was a very clear subordination for the medical service of these divisions. But not for the medical service as such, no.

Q.- Why not?

A.- Because these divisions could not deal with medical service or rather medical affairs, that is research, assignment, and so forth.

Q.- Now --

Mr. McHANEY: If the Tribunal, please, I think it would be helpful if the interpreter would use the German word Sanitaetsdienst as distinguished from Sanitaetswesen. I think that is the distinction the witness is trying to denote, and when translated into English it is extremely difficult to follow. I think if he would use the words Sanitaetsdienst and Sanitaetswesen, which the witness uses, in drawing this distinction, I think it might be easier to follow.

THE INTERPRETER: I thank you, Mr. McHanev, for this suggestion.

DR. NELTE: It is one of the most essential points to define the difference between Sanitaetsdienst and Sanitaetswesen. We will see that during the course of the further presentation of evidence.

Q.- Now, I should like you to look at the decree of August 1944, and the official directive dated the same day --

DR. NELTE: Mr. President, you have both of these documents in your possession.

Q. (Continued) - Would you please state what difference there was between the decree of 1944 and the jurisdiction which you received there and the decree of 1942, and the tasks which were then intended for you? In the decree of the year of 1944, it says "In extension of my decree of 1942."

A.- In the decree of 1944 it has to be pointed out that here in addition to the decree of 1942, it is being expressed that we are concerned with a stronger ability to gather strength in the sphere of medical

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services. The decree of 1942 spoke of the coordination of material and personnel, and here one would have to add the word "stil stronger," and if you add these words and take note of them you will understand what is being meant. The difference

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as regards to 1942 are very clear and obvious, and authority to issue orders being given, which however, confines itself and limits itself to a technical authority to issue orders to the medical chiefs of the Armed Forces Branches, with reference to the Waffen SS and other units, as far as it deals with their activity within the armed forces.

Q.- In order to enable the Tribunal to understand better, would you state what difference there is between authority to issue orders, as such and technical authority or authority to issue orders in technical matters?

A.- An authority to issue orders as such presupposes a relationship of superior and subordinate; that is to say, that anyone who has a total authority to give orders must be a superior. Then, we further have to differentiate between a total authority to issue orders and a limited authority as it is here, limited to technical matters.

Here this authority is technically limited to the Sanitaetsdienst, and one may understand it better if I say that a medical officer always had two superiors; one military superior that was his divisional commander, his regimental commander, his commander or supreme commander, and on the other hand he had a technical superior that was his army physician, division physician or regimental physician. An authority to issue orders in technical matters it has to be understood that the chief of the armed forces medical service in technical matters could give an order to the chief of the medical services of the Luftwaffe, but you have to add, without his becoming a superior on the strength of that authority.

I shall later come back to this superiority relationship. The next thing was the separation of the personnel union between the chief of the armed forces medical service and the armed forces medical inspector; that is, the creation of independence of the office of the chief of the armed forces medical services and the appointment of a new medical inspector of the army and army physicians.

In connection with that a new working staff was created belonging to the chief of the armed forces medical services. The third new thing created was the notation in the Fuehrer order to the effect that the official directive by General Keitel had the approval of the Fuehrer; that is to say, a sanction by the Fuehrer.

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Q.- You said that you then received a new staff. In order to give us a picture of the situation can you tell me how large the staff after 1942 was in relationship to 1 September 1944, as far as the budget was concerned.

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corned?

A.- The chief of the medical services of the armed forces had, in the year of 1942, one medical officer of the Air Force, one medical officer of the Navy, one registration official, and a few clerks. The staff of the chief of the medical services of 1944 comprised about thirty medical officers belonging to all the armed forces branches, and about seventy other employees.

Q.- Did that include officers of the Waffen SS?

A.- No, they were officers of the Army Air Force and Navy. A suggestion of mine that a number of SS physicians were to be included into that staff was rejected by the Waffen SS.

Q.- Why did you want to include medical officers of the Waffen SS in your staff?

A.- I emphasized before that I had no possibility to gain any insight into the personnel and material situation of the SS, and I was of the opinion that in this manner I would succeed in receiving such an insight. When my suggestion was rejected this channel, of course, was blocked.

Q.- On the strength of the decree of 1944 did an extension with reference to the Waffen SS arise?

A.- No, in no way at all. The numerical relationship of the SS divisions who were committed in the Wehrmacht had become different, I should merely like to correct a figure that I mentioned before. previously mentioned the year of 1941 when speaking about divisions of the Waffen SS, whereas I should have spoken about 1942. In the year of 1942 there were nine divisions of the Waffen SS at the Eastern front, but with the decree of 1944 nothing was changed in my relationship towards the Waffen SS compared to the year of 1942.

DR. MELTZ: Mr. President, in that connection I refer to the official footnote in the official directives intended for the chief of the

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armed forces medical service, dated the 7th of August 1944, which is before you.

Q.- In this footnote it says in this sense the Armed Forces, the Army Air Force, Navy as well as the units of the Waffen SS subordinated to

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the Wehrmacht and the organizations and units included within the framework of the Wehrmacht; that is to say, this relationship of subordination just as before referred to that part of the Waffen SS and that part of the medical service of the Waffen SS that was committed at the front?

A.- Yes.

THE PRESIDENT: When counsel refers to an exhibit if he would give the number of the exhibit for the record it would make reference much easier.

DR. MELTE: This was already mentioned by me before, since we were dealing with an exhibit of the prosecution.

THE PRESIDENT: I understand that, but if the number of the prosecution exhibit were included in the record together with counsel's statement it would make future reference to that exhibit some other time more convenient. Counsel need not go back and cite these numbers, but in the future when attention is called to an exhibit already in evidence, if the number of the exhibit could be mentioned it would facilitate examination of the record later.

DR. MELTE: We are here concerned with Document NO-227 in Document Book Number 1 of the Prosecution, page 18, and Exhibit 6.

Q.- Won't you please continue? Extensive authorities and extensive tasks were planned. Wherein were they extended? The staff that you mentioned was intended to be your working staff, intended for larger functions what were these larger functions which you were to assume from that period on?

A.- These interpretations are not quite correct. One must not forget that up to that time the working staff of the chief of the medical service of the armed forces was given by the people from the Army Inspectorate with reference to the material and technical tasks that had to be performed. The Army Medical Inspectorate was an office with over two hundred people. Among them I am sure there were fifty or sixty medical offi-

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cers. After the regulation of the year of 1944 that meant a separation of the chief of the armed forces medical services with the army inspectorate, the personnel

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that was at the disposal up to that time had be be substituted by now personnel of necessity. That was a necessity, automa^tice necessity, automatic necessity, in order to create an extensive independent staff of one's own.

Q.- When was this new decree put into effect?

A.- It came into effect with the 1st of September 1944, and I think the month of september 1944 passed before the individual medical officers arrived in Berlin from the various Wehrmacht branches, until their housing was settled, most of all until the female clerks had been employed. One could well say that we started to work on the 1st of October.

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Q.- What did you actually do on the basis of your new tasks?

A.- On the basis of my newly-given authority of issuing orders, I ordered at first that all Wehrmacht branches and the Waffen SS give me an exact report about their personal and material strength at that time. Secondly, I started to see that the central departments who up to that point were still working within the framework of the Army Inspectorate were to be taken over and included in the staff of the Chief of the Armed Forces Medical Service. Furthermore, the sphere of Wehrmacht care and welfare was taken over from the Army Medical Inspectorate, then the Department of Voluntary Care for the Sick and basically the problem of care for prisoners of war. This, of course, extended this sphere of work quite considerably. Furthermore, there was introduced, and this was important for the military services, a central exploitation of the sick reports which came from the various Wehrmacht branches.

Q.- I see under III under this Service Regulation 3 that as Chief of the Medical Service of the Wehrmacht you had the right to inspect certain units. Would you please say something about this right of inspection or right of control that you started to assume from the 1st of September 1944?

A.- This right of inspection is limited to the Sanitätsdienst Medical Service, to the Medical Unit, among others, roughly speaking, hospitals, and medical troops and institutions of the Armed Forces, that is to say, the various Armed Force Branches. In addition to this limitation, the Chief of the Wehrmacht of the Medical Service had the obligation to report the results of such inspections to the various branches of the Armed Forces, or rather their Commanders. And there is the following to say in this connection: In my capacity as Medical Inspector of the Army, with the Army, I had a unlimited right of inspection. Whenever I did not want to, there was no necessity for me to inform any one about any intended inspection tour. During the years of my office, I also maintained the point of view that any inspection could only serve a purpose if it comes unexpectedly as possible, and that it would be completely nonsensical if days before an intended inspection all sorts of preparations were being made so that the man who is inspection would be satisfied. With this limitation, namely, that the OKW was to be informed, the main purpose of such an inspection was lost. For these inspections that were carried through with the Chief of the Wehrmacht Medical Service could never serve the purpose of controlling the medical works of hospitals for that was the right and the duty of the Medical Chiefs and their subordinated agencies. The purpose would have been to establish how the hospitals of one Armed Force are equipped with material and personnel in relation to the hospitals of another Armed Force Branch. Whether this purpose could have been fulfilled with such an inspection tour was highly questionable. For example, I wanted to emphasize particularly that the Chief of the Wehrmacht Medical Service did not have the right to appear as a controlling person at any branch of the Armed Forces; I am sure that the Chief of any such branch would have rejected this interference, rightly so.

Q.- Then, it appears that most of your authority was in your capaci-

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ty as Medical Inspector of the Army?

A.- That is true, Generaloberst Fromm, who at that time was my superior in the whole army, and to whom I was subordinated as Army Medical

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Inspector, told me when the question became acute. When preparations were made in the Spring of 1944, he said I would receive a high sounding name, but I would remain a poor man, and that is actually what happened.

Q.- In the Service Regulations, I see under Roman Numeral II, Arabic 4a, what the duties of the Medical Chief of the Wehrmacht will be: "A) In the medical scientific field uniform measures in the field of health guidance, research, and the combating of epidemics." Would you please state what can be understood in that connection under your jurisdiction generally? We shall come to the research question later.

A.- Already under the old Wehrmacht Medical Chief of 1942, and then strengthened by the Regulation of 1944, the mutual tasks in the field of Health Leadership, and that does not only mean inoculations, but that also includes directives and regulations for Hygiene with units, now regulations about troop Hygiene, the introduction of mutual vaccines, the discussion of questions whether it would be necessary to deal with the question of Influenza, and the combating of such a disease, and similar questions were dealt with.

Q.- Let us assume that you had in this sphere of Typhus -- the Air Force was conducting research, that is to say, medical officers of the Air Force were dealing with that problem. On the basis of your authority, would you have had the obligation to interfere and to say that you must not deal with Typhus research and Typhus experiments; that is something that is being coordinated; that is being done in Krakow, for instance, Professor Eyer is working on that or somebody else is working on it. Can your jurisdiction be understood in that manner?

A.- Neither my jurisdiction can be understood in that manner nor would I have an occasion to do it nor would I have thought it correct to do it.

JUDGE SEERING: I want to direct a question to the witness.

BY JUDGE SEERING:

Q.-Suppose you had learned, Doctor, that in these experiments they were being conducted under the circumstances Doctor Nelte has talked about, upon non-German nationals in concentration camps without their consent, and as a consequence scores of them were dying from the medical experiments. Would that change your answer to the question?

A.- If I had learned that which you have just described, the first question would have been in what sphere it was done, and by whom it was done. And, such a report which would have reached me as Chief of The Armed Forces Medical Service, I would have transmitted, by official channels to the Medical Chief who was responsible for the persons concerned in the first place; that is, either the Army, Navy, or Air Force. And when transmitting this report, I would have asked him to supply me with information, asking him how the matter stood, whether it was correct or whether he knew anything about it. This would have ended one obligation on my part. The second obligation which would have resulted, but only after I received a confirmation from the Medical Chief concerned, would have been a report to my military superior; that would have been the Chief of OMV. And, no doubt I would have made a report to the Commissioner General because in the Service Regulations it said that he is to be informed about basic matters; and by that I also understand these important matters. As Chief of the Wehrmacht Medical Service I had no authority toward the individual medical officers. I would have had to turn to the medical chiefs of the various branches of the Armed Forces. The situation would have been clear in relation to the Waffen SS; namely, that any such report about such happenings would have been reported to the Medical Chief of the Waffen SS. In the latter case, however, there would have been a difference; namely, that this would have been a matter outside the sphere of the Wehrmacht, and in that connection this would not

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have been an official duty on my part, but merely a report to which I would have thought I was obligated to make.

THE PRESIDENT: The Tribunal will take a recess.

THE MARSHAL: The Tribunal is again in session.

DIRECT EXAMINATION, Resumed.

BY DR. HELTE:

Q.- Witness, every new regulation takes a certain time before it becomes effective. The decree of the 7th of August, 1944, was to go into effect on the 1st of September, 1944. Will you please tell me whether the new order as planned really went into operation before the collapse?

A.- What had been planned could not be put into a real practical effect before the collapse. The main reason for this was that the agencies with which one had to work became so difficult and the transportation conditions became worse every day so that the connection no longer existed which would have been necessary in order to put the intentions of the new regulation into effect. One must not forget that as early as at the end of 1944 and above all in January and February of 1945 the supreme agencies of the Wehrmacht had gradually been transferred away from Berlin in part to Thuringia; and when sent from one by railroad to establish certain contacts, one could count on being away for several days. But that happened not only to me; that happened to all agencies, as can be proved.

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Q.- Then is it correct if I assume that your main activity from the point of view of time and from the point of view of subject matter fell under the decree of 1942?

A.- Yes, one can say that.

Q.- I have had a diagram, a chart handed to you, which is called "Medical Affairs of the Wehrmacht" and to which you have sworn. Will you please look at the chart and tell us what the document number is?

A.- NO-282.

Q.- It is in Document Book I of the Prosecution. Do you have anything to say about this chart which bears your signature?

A.- Yes, I have something to say. First, I must explain the following: The heading of this chart is "Wehrmacht Medical Service (Sanitätsdienst)". When Dr. Rapp, who was interrogating me asked me about this Wehrmacht Medical Service (Sanitätsdienst) he showed me a sketch which he had probably made, which contained the Wehrmacht and Civilian Matters and the SS. I pointed out several errors and then I was given this sketch and I was to prepare a new one for the Wehrmacht, that is, for the Chief of the Wehrmacht Medical Service and I did so. Now I must remark in connection with this sketch that the square at the top above the Chief of the Wehrmacht Medical Service assigned to the Reich Commissioner, Professor Brandt, can or must give the impression that he was a superior of the Chief of the Wehrmacht Medical Service. He was not. I considered it my duty to make that clear. In this connection I should like to say that a few days later I was shown a report of my career. I do not know who wrote it. I made at least fifteen to twenty corrections because it said a number of things which simply were not true. I recall that it said the General Commissioner, Professor Dr. Brandt, was my military and medical superior. That may have been at the end of this report of my career. In my corrections I crossed out the word "military", and, therefore, as I can remember it read "medical superior". In connection with my explanation

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that this is wrong, if one should assume from this sketch that Brandt was my superior, I should also like to correct this, if it is true that the word "military" superior was crossed out in the report of my career, but the word "medical" was left. I would assume that this report is in the Document.

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Book which contains all of the careers of all the defendants.

Q.- Then how would you describe your relationship with Professor Karl Brandt?

A.- I would explain that as has already been done here. According to the assignments he had coordinated between the Wehrmacht and the Civilian Sector, and that within the framework of his duties, if it had been necessary, could have given me instructions, whether general directives or in a specific case. I have one more thing to say about this chart. I made some notations which are unfortunately hard to read. These notes arose from the two interrogations and some questions concerning the request to prepare such a sketch. The Prosecutor has here referred to a note No. 5, which indicates a note concerning my typhus research institute at Krakow, whether, to what extent and in what way, there was correspondence between the Typhus Institute in Krakow and the Typhus Institute of the Waffen SS I do not know. In any case if there was any correspondence it did not go through my hands. The Prosecutor pointed out in connection with this sketch that this note refers to a man who has a bad conscience in this connection. This note was made because I was shown a sketch, in which the Research Institute at Krakow was listed under the Wehrmacht and the Typhus Institute in Buchenwald was listed under the SS and a line had been drawn between the two. Thereupon, I crossed out this line with pencil, and said that was not right, there was no official connection here. Then I was asked specifically whether they had anything to do with each other, and I answered as far as I know, "no". Because of this incident, the sketch with the connecting line and the specific question I added note No. 5, as well as four other notes. This was done after a direct question. I have nothing else to say about this.

Q.- Now we come to another subject. You are held responsible for actions and omissions of persons for whom you bear the responsibility. That is what the indictment says. In view of the various positions which

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you held I must make it clear what group of persons is concerned for whom you must bear responsibility. Please tell me who were the heads of the agencies of the Army Medical Inspectorate and the Wehrmacht Medical Service, if you were not present at the seat of your agency?

A.- The regulations on this subject state very clearly in the case of the

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Army Medical Inspector, as well as Chief of the Army Medical Service, the representative in all current business is the Chief of Staff. By "current business" we mean the normal official business, and in addition to the correspondence there are only personal matters of medical officers who are considerably older than the Chief of Staff and have higher and special positions or if fundamental questions come up of special importance, in which the Chief of Staff is not in a position to refer to his absent inspector and if he must be reached immediately, in such cases my chief would have approached the oldest medical officer in the field or at home, but that hardly happened.

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Q.- It will be very important whether you had knowledge of certain matters precisely, including reports. Therefore, I must ask you what was the course of the business, what happened when the mail was received in the agencies in the morning? How was it handled, and how was it distributed?

A.- I shall take the Medical Inspectorate as an example. The procedure was the same with the Chief of the Wehrmacht Medical Service. The so-called "open mail", the ordinary mail, was sent to a central office, the registry office, was opened by the registrar, and according to the contents was sent either to the Chief of Staff or the heads of the individual departments. "Secret matters" were entered in a special book and the procedure differed at different times, either all sent to the Chief of Staff or part to the Chief of Staff and part to the heads of departments. For "Top Secret" matters there was a special register and these things were all sent to the Chief of Staff. These things, even the "Top Secret" things addressed to the Army Medical Inspectorate or representative - the Chief of Staff was empowered to open these. The only things he could not open was what was sent as "top secret" with my name personally without the addition of the words "or representative in office". But these were extraordinary cases.

Q.- I am asking you this because I should like to know whether on principle your Chiefs of Staff knew what was to come to your attention or what did come to your attention.

A.- What came by mail they had to know as I have just described the procedure. The only exceptions would be the few "top secret" letters sent to my personal address.

Q.- Would it not be a possible exception to be made for things which the registrar sent directly to heads of departments?

A.- Yes, that is true but the heads of departments again had the obligation to work on these matters and, according to the urgency, to

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present them to the Chief of Staff, either immediately or within a few days just as the heads of the departments who reported to me when I was present first had to

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have reported these matters to the Chief of Staff. Therefore, there remained only cases which were not questions of male, but where I had negotiations or talks with someone. And, again one must distinguish between whether I was there alone or whether there was someone with me. In most cases I did not go to such talks alone. Generally there was an expert on the subject needed and, in the second place, it was practical for me to have my adjutant with me because telephone calls were received, etc., so that, in general, the person who went with me usually informed the Chief of Staff afterwards even if I did not so and even if I participated alone. If they were more or less important matters then I absolutely had to inform the Chief of Staff, because in my absence he had to know what was going on, what could happen, or what had been discussed. Otherwise, it would not have been possible to carry on business of our office, since in my absence the people always approached my Chief of Staff personally or by telephone.

Q.- Then the two Chiefs of Staff who will appear here as witness must be able to tell us what you desired on the one hand, and on the other hand what you learned of?

A.- Yes, absolutely.

Q.- It may be necessary to explain a few terms important for the questioning of your competency and your authority. A little while ago you spoke of the relationship between superiors and subordinates in deviation from the term "authority" to issue orders. Since your responsibility is dependent on this point I should like to know whether terms like, direction, management, etc., whether they are anywhere set down and regulated authority?

A.- That can be best seen as I am to give a concrete example established by document. In the Document Book on page 45 and 46, the Army Medical Inspector is presented.

Q.- I might point out that this is document HA 28A, Exhibit #2,

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Document Book I, page 44.

A.- The text speaks for itself. It says, under #6 "The Army Medical Inspector is the Head of the Medical Section of the War Time Army. He is the

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superior of the entire medical personnel of the War time Army in medical matters and he is the superior officer of all medical units of the War time Army."

A footnote has been omitted here which is contained in the War Medical Decree which explains what is meant by medical personnel. It says "medical personnel include medical officers, non-commissioned officers, officials of the Medical Service, pharmacists, dentists, officials of the Administrative Service, special leaders in the Medical Service, and volunteer nurses." This shows clearly that this is a superior and I must add that under §11 the following is stated: "By means of inspection he convinced himself of the execution of his orders and of the state of health of the Field and Reserve Army."

In regard to the right of inspections it was not said that he needs to ask anyone about it before hand or even to inform any one.

Q.- Then that is a clear case of the relationship of superior and subordinate as well as the total power to issue orders?

A.- And, another one which we do not have a copy here is made equally clear - the case of the Army physician, the Army Corps and Divisional doctors of the Army. In other branches of the Wehrmacht it was the same. It said that they are superiors of their medical personnel in question of medical service and they are troop superiors to medical chiefs under their command. Now I should like to say in this case we have a clear relationship in the Army Air Force and the Navy. The Medical Chiefs are superiors of all the medical personnel and if in the Army one speaks of a superior this automatically and of necessity includes the power to issue orders.

When in military regulations we find something about instructions - about who being a superior - this is always a very luke warm and weak and unclear matter. And, if one calls a high medical officer the head of an agency and entrusted direction of it to him without making him a

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superior and without giving him unlimited authority, this is a very weak
uncomprising solution which everyone who understands these matters will
recognize as weakness

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and that is the relationship as one looks at instruction of Chief of the Wehrmacht Medical Service in contrast to regulations of Army Medical Inspector or Chief of the Medical Service of the Air Force and Navy. That is what I wanted to clear up.

DR. NIELTE: Mr. President, I should like to submit to the Tribunal Document HA 50, which is in my 3rd document book and therefore is not yet available. This is a copy from the War Medical Decree, pages 4 to 6 and deals with the problems of which Professor Handloser has just spoken. I may submit this document now, as Exhibit 6a. Document Book 3 will be handed in tomorrow.

Q.- Aside from the medical units or medical agencies, were there also institutes under you or your agencies as Army Medical Inspector or Chief of the Wehrmacht Medical Service?

A.- Yes, there were such institutes; there were 7 of them. I should like to distinguish between the 4 which existed during peace time, that is, the Military Medical Academy, the Medical Training Section in Berlin and the Main Medical Camp in Berlin, -- 3 then. During the war there were added the Typhus Research Institute in Krakow and Lemberg, the Surgical Special Hospital in Brussels, the Central Archives for War Medicine in Berlin, and the Army Mountain Medical School in St. Johann. These institutes were directly under the Army Medical Inspector.

Q.- Will you please describe the official relationship which you, as Army Medical Inspector, had with these institutes?

A.- They were military organization headed by a commanding officer. That is to say, primarily the commanding officer is responsible for what happens in his military institute; he again is under and is thereby responsible to the Army Medical Inspector, who, of course, since the Institute is directly subordinate to him, on the whole bears the responsibility for it. That was the case with the Academy and that was the case with the other institutes. But I consider it necessary to give an example of what these institutes were like. I shall take the Military Medical Academy and say briefly what it was and what the supervision within the Academy was.

The Military Medical Academy, which we shall mention frequently, is

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an organization dating from 1795. Its name at that time was the Friedrich Wilhelm Institute, because the King, Friedrich Wilhelm II, had founded it. After 100

years of existence, in 1895, it changed its name to Kaiser Wilhelm Academy and when it was re-established after the first World War, it was given the name Military Medical Academy. It had always had 2 tasks, in the first place to give the new recruits for the career of medical officer, additional training and in addition, in its own scientific institutes, to help the students; and on the other hand, to carry on such research as was directly connected with military medicine. At the head of the academy there was always an especially proved commanding officer. The picture of the academy in the lower fields was that under this commanding officer. The picture of the academy in the lower fields was that under this commanding officer there were 3 training groups, headed again by a Generalarzt or an Oberstarzt. In 2 of these groups there were the students in Group A, those before the physikum, the first medical examination, and in Group B, those in their clinical semesters. The third group, Training Group C, was the scientific group with the scientific institutes. The last director was Generalarzt Schreiber, who has frequently been mentioned.

In these institutes, military medical research was carried on. The medical officers in these training groups, I am thinking, for example, of Stabsarzt Dohmen, who has also been mentioned frequently, were primarily under the commanding officer of the training group and he in turn was under the commanding officer of the Academy and the Commanding officer of the Academy was under the Army Medical Inspector. The organization in other institutes was built up on the same principle; whether it was St. Johann or the Central Archives, it was all the same; only the hospital in Brussels was different, which was purely a hospital and to which was attached a special scientific research department.

Q.- You were Army Physician (Heeresarzt) and Army Medical Inspector and until you became Chief of the Wehrmacht Medical Service your functions were separate. What was the reason for joining the functions of Army Phy-

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sician and Army Medical Inspector ? I will, in a moment, point out what is important for my case so that the Prosecution does not think that I am bringing the Army Physician into the case unnecessarily. Army Physician and Medical Inspector were two functions which up until then had required all the services of one

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man, a high military doctor. They were united and a sphere of work was created from which I must assume, without explanation, that it was too much for one person and would perhaps not give you the opportunity to do justice to the responsibility which you had in this high position. Will you please explain this and tell us how it was possible to fill these 2 positions and later 3 positions responsibly?

A.- In 1939 I was in Poland. In 1940, I was in France. I was an Armee Arzt (Army Physician). Thus from two sectors, from two theaters of war, I was able to form a judgment about the management of the medical service and of course I also talked to their comrades about it. I was in the first World War, too, and I was able to see that our Supreme Medical Commander, that was von Gernin, as full Medical Chief and Generalstabsarzt of the Army, was in the field, at headquarters, and not at home. He arranged it at that time so that he was in charge of matters in the field himself and that at home he had a representative, who was a Generalarzt, but he himself was in charge of the direction of all matters at home and in the field. In the recent World War the Army Medical Inspector, Waldmann, was in Berlin, and a Heeresarzt was appointed for the Field Army. That was certainly not due to the desire of the Army Medical Inspectorate and my predecessor. That was connected with the military organization and with the point of view that in the field one cannot have any ministerial people with ministerial habits. My predecessor, Professor Waldmann, during the campaign in Poland and during the campaign in France, he was not in Berlin either; but he had the feeling, just as everyone else did, that the primary thing and the emphasis, -- the first concern -- was with the troops in the field.

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If they were not cared for properly, if things did not run right at the front, then no amount of work at home did any good. My army in Poland, as well as my army in France, in spite of the brief duration of the campaigns, he visited my armies repeatedly.

Now when I became his successor, I was immediately confronted with the question in Berlin, if there is a change now and it was known that Generalstabsarzt Ott in the very near future would give up his position, it was said, "Now or Never." This obvious mistake in organization must be done away with and therefore from my own experience, as well as on the basis of the fact that from the first World war and from the preceding campaigns in 1939 and 1940, came that decision that Generaloberst Froom, who was Commander of the Reserve Army and the Commander in Chief of the army von Brauchitsch, that I should suggest to them that the two organizations should be united. First, this was to be a simplification, secondly, time was to be saved and third, every possibility for friction, which of course existed between the field armies and the home army, was to be removed.

Q.- Then, in your opinion and in the opinion of the army medical officers, you presented the necessity. What is important, here, however, is that you say how you created the safeguards, the order to safeguard the responsibility of such a high officer as the Army Medical Inspector. Please clarify your responsibility.

A.- The extent of the duty alone, from the point of view of area alone, had become so great as the war expanded that no one in charge, even the Heeresarzt could be everywhere. The Army Medical Inspector at home could not do that, everything had to be built upon the basis of the decentralization and on the selection of the best people as supports for the execution of the duties on the principle that the best men should be put in the best places. This was done at home by the selection of the Wehrkreis physicians and by the promotion and support of their authority and that

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was done in the field by the selection of army physicians.

When the area became substantially greater and the difficulty be-

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came substantially greater, the military agencies, on their own initiative, since they were in the same position, created a new agency between the high command of the army and the various armies - the so-called army group commands, since it could not at first be achieved that army group physicians should be assigned to these army group commands. Conditions later showed the High Command of the Army that this had to be done later and so at the end of 1941 or the beginning of 1942 army group physicians, with the rank of Generalarzt or generalstabsarzt were created, who were above the physicians of the various armies as connecting link to the Heeresarzt and the Army Medical Inspectors. That is a typical example of the fact that the expanded duties and the expanded area required a new safeguard for the execution of control and supervision and advise.

I should only like to add to clarify the matter, that the Wehrkreis physicians at home, I believe with one or two exceptions, and there were nineteen of them, that they were all even older than I and that a considerable proportion of them had formerly been my superiors as Wehrkreis physicians or as army group physicians in peace time and that in the field, they were of the same age as I with very few exceptions. They were men with the rank of a Generalarzt or Generalstabsarzt, who had reached this rank only on the basis of long experience and special achievement. These were not men whom one had to watch or control. These were men who guaranteed that they would do their utmost and their best and that they had the necessary experience and the necessary ability.

Q.- In connection with this policy of putting the best men in the most difficult posts, there had to be added, I should like to say, the legislative activities; you had to issue instructions, directives, orders, etc., was that organized in that way?

A.- Do you mean these Army Camp Physicians?

Q.- All physicians from your point of view?

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A.- Yes, of course that was done.

Q.- This is what I should like to learn; were numerous instructions, directives and orders issued by you?

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A.- Yes, of course.

Q.- I mention this because unfortunately we have no documents in the Prosecution's Document books bearing your signature. If such orders had not corresponded to the rules demanded of an orderly command, I am convinced that we would have seen them here. I should also like to ask you if you know of any significant, or were there any significant violations reported to you in connection with inadmissibility, or the execution of the military medical point of view or the ethical point of view?

A.- No.

Q.- I am not merely speaking of the front, the doctors at the front; I am speaking of at home too?

A.- Yes.

DR. NELTE: Mr. President, now I want to come to the question of the consulting specialists, on the functions of these consulting specialists, but Generalarzt Gutzeit has testified about this as a witness, so I believe I can dispense with this matter; but in this connection I should like to present two documents to the Tribunal. In the first place an excerpt from the War Medical Decree, No-222, 226 and 235. This deals with the group of consulting physicians in the Army.

THE PRESIDENT: In what Document Book are these documents contained.

DR. NELTE: You will find these documents in Book No. 1, page 36. It is document HA 19, and will be Exhibit No. 7, if the Tribunal accepts this document as an exhibit.

THE PRESIDENT: Is it counsel's intention to read the document into the record or simply have it offered in evidence?

DR. NELTE: I merely want to submit it. In the examination of the witness Butzeit the contents were already presented. It is only the legal regulation of the position which the consulting physicians had.

THE PRESIDENT: Very well.

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DR. NELTE: And the next document on the same point I submit a statement of the defendant Professor Handloser on the establishment of the consulting physicians. I shall not read this either. I only offer

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it as an exhibit. It is in the Document Book No. 1, Page 32. It is document HA 18. I ask that you accept this statement of the defendant as Exhibit No. 8.

THE PRESIDENT: In the Document Book I do not find Document HA 18 listed in the index. It is in the book, but not indexed.

DR. NELTE: The section which produced these documents left this document out, but only in the index. In the document book itself, on Page 32, you will find the document.

THE PRESIDENT: It is in the Document Book. I have it. I was calling attention to the fact it was omitted from the index.

There being no objections the documents will be admitted.

The Tribunal will now recess until 9:30 tomorrow morning.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 4

Target 3

Volume 9

Feb. 12-19, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 9**

TRANSCRIPTS

(English)

12-19 February 1947 pp. 2870-3212

1 CORRECTED COPY

Official transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al; defendants, sitting at Nuernberg, Germany, on 12 February 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats. The Honorable, the Judges of Military Tribunal 1. Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in court.

THE MARSHAL: May it please Your Honor, all defendants are present with the exception of the defendant Oberhausor who is absent due to a continuation of her previously existing illness.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in court with the exception of the defendant Oberhausor who is absent on account of illness as per her physician's certificate.

The Tribunal has considered the application presented yesterday by defense counsel Sauter for a demonstration before the court in connection with the high altitude experiments. The Tribunal has considered the application and the application is denied.

Counsel may proceed with the examination.

SIEGRIED HANDLOSER - Resumed.

EXAMINATION (Continued)

BY MR. MELTZ :

Q- Professor, you said yesterday that the Medical Service of the Army, whose chief medical officer you were, had to care for the health of about ten million members of the armed forces. To clarify this question I should like to ask you: Does this mean only soldiers for whose health you had to care?

A. No, not only soldiers. Of these approximately ten million there were included all the members of the families of the soldiers at home. The military doctors since 1922 had to care for the families of the soldiers as

well as the soldiers themselves. There were also all these persons connected with the Wehrmacht including all the nurses, all the Signal Corps assistants, all staff assistants. Also the population of the occupied territories until the civilian medical authorities were able to take over their care and supervision; also the prisoners of war in the operational area as well as at home.

Q. How many medical officers, active and reserve, belonged to the medical service of the army?

A. I can give exact information about that since I still have records, documents, of the 1st of February 1943. At that time the Army had 2,191 active medical officers, including the reactivated formerly active officers who were 3,242. That makes a total of 3,433. Then there were reserve medical officers, 19,580; together, 25,013. On the 1st of February 1943, and in the following period too, we had the senior medical students as so-called Feldunterarzt; that is, assistant doctors in hospitals and with the troops. These were 1,638 at that time. That makes a total of medical officers at home and in the field of 26,651. At this time the Luftwaffe had about 10,000 physicians and dentists. The Waffen SS at the front had about 3,000 medical officers. That makes a total of 39,651. Unfortunately I do not have any figures from the navy.

This may be a good opportunity to mention an official figure which I have that is the last official report of the OKW including the time from the beginning of the campaign on Russia in 1941 until 31 January 1945. After this time it was no longer possible to compile reports, at least we did not get any reports. The number of dead at that time was 2,100,000. The number of wounded during the campaign in Russia was approximately 5,000,000. The number of prisoners taken during the period of fighting was 2,500,000. This may also be the appropriate opportunity to mention the casualties among the medical officers. I have official figures here too giving insight into the months of June to December 1942. At the front we had 6,048 doctors. In these six months 791 of them fell; that is, about 12.5 percent. 1,533 were wounded; that is, 25 percent. From the year

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1943 as Army Medical Inspector I should like to mention that with the
disaster of Stalingrad we lost 274

doctors at once. With the disaster of Tunis we lost about 250 medical officers. I mention this because it was my duty as Medical Inspector to cover these losses, to fill these gaps, and this was an especially difficult and expensive field of work for me.

THE PRESIDENT: Just a moment, counsel. I neglected to remind the witness that he is still under oath, having been sworn yesterday.

Counsel may proceed.

Q. As chief of the Wehrmacht Medical Service you were the highest medical officer in the Wehrmacht. The prosecution has concluded from this position an organizational responsibility for the actions, the alleged actions of any medical officers.

I should like to ask you, were you as chief of the Wehrmacht Medical Service responsible for the actions of all medical officers of the Wehrmacht?

A. I must answer this question in this general form with no. I was responsible for the individual medical officer, for what he did on specific orders from me, or what he did as the result of general orders which I had given, nothing else.

Q. Now, it is possible that without such an order or such general orders a medical officer under your command in execution of his profession might commit a punishable action. Must you be responsible for it?

A. If I learn officially or in any other way of this punishable action and if I did not clear up the situation, and if necessary, take steps against it, then certainly a charge could be made against me.

Q. Now, I should like to exhaust all possibilities in connection with your responsibility. What about the charge of inadequate supervision in this connection?

A. Yesterday I attempted to explain the relationship and the powers of a superior and this includes the factor of supervision, but it was not understood and it cannot be understood to mean that a higher supreme supporter who is responsible for all theaters of war and for the homeland, that he can exercise supervision over every individual subordinate. That is impossible and that is not possible anywhere in the world in military or civilian life, and it cannot be demanded.

My supervision, for example, as Army Medical Inspector applied to the army group physicians, to the Wehrkreise physicians, and to the commanding officers of the institutes and organizations directly under my command.

I will mention an example. A medical officer with the troops or in a hospital, just like a soldier in the company or battalion, is under the

supervision of his immediate superior; that is, the chief physician in a hospital and above him the commanding officer of the medical section, and then the Wehrkreis physician, but that goes very far.

Another example; Stabsarzt Dohmen, who has been mentioned repeatedly, was one of the 26,500 medical officers under my command. The commanding officer of the training group C is responsible for supervising him and in addition, the commanding officer of the Military Medical Academy. What I said quite generally, of course, applies. If in any way I had learned of anything about an individual medical officer who was far away from me it would have been my duty without consideration of the many superiors between us to take up the case to see that it was cleared up and to take the necessary steps.

Q Now, I come to another chapter of my examination. As you know, the individual charges which are raised against you concern experiments connected with research. The prosecution alleges that you were not directly connected, but that, because of your position as Army Medical Inspector and chief of the Wehrmacht Medical Service you were connected with the experiments which are called illegal, and that you have special responsibility. Does the field of medical research belong to the medical matters?

A Yes, research is connected with any health service.

Q Is there a special military medical science?

A Yes, there is. It is called military medicine, or we use the expression, "Wehrmedizin", for it. If I am to explain that briefly, explain it to this group, I must make a comparison. Imagine a big strong tree with widespread roots, with a strong trunk, and with many branches and twigs. The roots and the trunk which give strength and which give life to the whole tree, that is general medicine. And the branches and the twigs are the many individual fields which are larger or smaller, which are the specialties. One such branch is military medicine, under medicine in general. This branch is an indispensable and integral part of medicine as a whole. It has a certain life of its own which, however, is dependent

on the strength and the influence which it gets from the roots and the trunk, and it will never have the idea of disassociating itself from this trunk because that would take away the source of its life.

This branch again has branches and leaves and fruit, and in the life of this tree it gives the whole tree a great deal of nourishment. That is how one must understand military medicine as an integral part of the whole thing which grows out of general medicine and receives an enormous amount from it, but by way of gratitude in a sense and as a natural consequence gives it a number of suggestions and experiences which only military medicine can collect.

Military medicine is determined by the character of military life and the military sphere. I must sum that up briefly. I can give only a few examples by way of explanation. We have definite military diseases, if I may mention a few surgical ones. There are the well known diseases of the foot which soldiers acquire when marching. The foot swells. Often there is a fracture which is hard to recognize, of a metatarsal bone. In all countries special attention was devoted to this disease. It has always been said the man weapon of the infantryman is not his gun; it is his feet. And the great majority of the German soldiers in the second World War were not driven but were dependent on their feet.

May I bring an example from internal medicine? We speak of the dangers of the special surroundings of the mass accommodations of soldiers which formerly had existed only in the army. This, of course, brings the dangers of the transfer of diseases to a much greater extent than in civilian life. For the scientific senate I worked on epidemic meningitis. At all times we had cases of this frequently fatal disease. I went through all the literature on the subject, and I saw that in many countries military medicine was especially interested in it.

The English in India in their barracks often had actual epidemics of meningitis. They found that the bacteria which caused this disease exist everywhere and that thirty -- forty -- fifty percent of the people in their nasal passages have these bacteria. Only under special circumstances in cases of colds, special physical efforts such as marching do these bacteria suddenly get the upper hand, as it were, become dangerous, and apparently healthy soldiers fall down and if they are unlucky they are dead in twenty-four or forty-eight hours.

That was the beginning of a long series of experiments which finally led to various measures with which the military doctor is familiar which are still in use today, the most simple one to keep the people separated so that during sleep the breath does not affect their neighbor.

Q. Professor, may I interrupt you. You have already given two examples of typical military medicine. I believe that a picture has been given to the Tribunal of what it is about. What I am interested in here in connection with the trial is this: was military medicine a typically German, I might say, militaristic phenomena, or did this military medicine exist everywhere?

A. There was military medicine in all countries wherever there was an army. I personally had the impression because in 1936 after the first World War a German medical delegation consisting of one medical officer of the army, the navy and the Luftwaffe was under my direction which was invited to the International Congress in Brussels.

Q. Was that only a Congress or was it a society, a permanent society?

A. The basis for it was a permanent organization, an international organization which included about fifty countries which had a permanent office in Hers tael near Brussels under the direction of the Belgians.

Q. I think it was at Liège?

A. Yes, at Liège. Every two years these military doctors had a meeting. I attended the meeting in Bucharest. Germany had become a member again after the first World War although I was still a guest at Brussels, and the last Congress in 1939 was in Washington. At these meetings or Congress questions were discussed which were important for military medicine in peace time and also in respect to a possible war, and I believe that the countries concerned brought one or two military doctors who made a speech agreed upon beforehand at this Congress.

Q. Then if I have understood you correctly, at these planned meetings of military doctors of the whole world questions were discussed and the dangers were discussed which threatened soldiers in peace and in war?

A. Yes, that is so.

Q. Was that the same thing that was the purpose of the meetings which the Prosecution has here called meetings of conspirators, the meetings of the consulting specialists of the Wehrmacht?

A. The purpose and the affect of these Congresses were exactly the same as in our meetings. After these meetings, too, a printed report of the meeting was published which was sent to the participants and to the highest medical agencies in the countries concerned.

Then the medical inspectors of these countries and their economic advisors selected those speeches which were of special importance and brought something new, and in each country they were made known to the public, the same thing that we did in a somewhat different form after our meetings.

Q. In these reports which the most famous military doctors of the world made at these meetings in reporting the results of their research, could one always judge how they reached these conclusions?

A. That was possible in many cases and in other cases not.

Q. Now let us go into your case concretely. What fields of medical research fell under your control as Army Medical Inspector?

A. We will reach our aim most quickly if I mention a few examples. Let us take dysentery, for example. I mentioned this example in my affidavit.

THE PRESIDENT: Counsel, the Tribunal has listened to the witness for some time on general statements of the military profession which the members of the Tribunal understand, and I think it is about time that more concrete questions are asked and answered. I understood that counsel was about to ask pointed questions concerning the questions now before the Tribunal, but the Tribunal would not be interested in discussions of questions which are foreign to the matters which are now before the Tribunal for consideration.

DR. NELTE: Mr. President, I have asked, "What fields of medical research came under your control as Army Medical Inspector?" Does not the Tribunal believe that this is a concrete question?

JUDGE SEBRING: Doctor Nelta, ~~perhaps~~ I can clarify for you what the Tribunal is interested in, which encompasses not only the question you have asked but the entire field of inquiry that the Tribunal would like to know something about and I am going to ask a few questions, to the witness, if I may, and I think perhaps you will see then the type of information we would like to have from this witness, if he can give it.

BY JUDGE SEBRING:

Q Doctor Handloser, during the course of your presence on the witness stand, you have exhibited a tremendous knowledge of the manner in which the various medical activities of the German Government were organized, and the manner in which they operated during the recent war, and I should like to put this question to you: You have heard the testimony of the Prosecution witnesses, and doubtless have read the documents submitted by the Prosecution. Now, let us assume that such evidence produced by the Prosecution is sufficient to prove that the medical experiments were, in fact, carried out in concentration camps upon non-German nationals without their consent, and that such experimental subjects were killed as a result of such experiments. Let us assume further, for the purpose of pointing up the question, that the evidence submitted by the Prosecution is sufficient to prove that the experiments were conducted by and for the benefit of the Waffen-SS. Now then, in your opinion, gained from your intimate knowledge of the frame work of the German Government under Hitler, what officials or agencies in the German Government would have been responsible for the deaths resulting to non-German nationals from such experiments?

A That would have been those who had ordered the experiments. I must assume that they were illegal criminal experiments.

Q I am assuming that for the sake of this question. That is a matter ultimately the Tribunal must decide, but for the sake of getting your views let us assume that fact.

A If it had become known to the responsible agencies, that they were criminal, then the agency which had official supervision would have been obligated to interfere. That would have been for the concentration camps. As far as I know, the Reichsfuehrer Himmler, Reich Physician Grawitz, since they

were medical experiments, that would be the actual circle in this sector. To what extent the Reich Health Leader Conti had anything to do with it or would have had anything to do with it, I cannot judge. He would be effected if such measures had been originated by him or he would have been in a position, as Chief Health Leader of the civilian sector; if he had learned of them he should have brought them up with his Ministers, the Reich Ministry of the Interior or the Reichsfuehrer of the SS.

Q What would be your answer if we may assume that the evidence of the Prosecution shows that these medical experiments were performed in a criminal manner and were conducted for the benefit of the German Navy?

A Then, the question would have been to what extent the Navy had participated in this matter. You said, your Honor, that I had an extensive knowledge of the organization of the medical system, and I notice that the Indictment, in speaking of these experiments, frequently says "in the interest of the Wehrmacht"; that is, of course, a very vague term, it is not concrete.

Q That is precisely the reason that I am asking you these questions and particularizing. The question now is what would be your answer if the experiments were conducted by and for the German Navy?

A If you say by the Navy, then the Navy must have participated; then the Navy must have known about it; then the Navy ordered it or approved it for certain reasons; that it thereby is made responsible would be beyond doubt.

Q What would be your answer if we assume that the Prosecution's evidence shows that such experiments were conducted by and for the benefit of the German Air Force?

A If they were carried out by the Air Force, then, in my opinion, it will again be true here that the Luftwaffe, the Air Force, is responsible for it, but with the limitation that the execution of the experiments proceeded in the way in which the Air Force intended.

Q Let us assume that the evidence shows that although such experiments were not conducted by the Air Force, that they were conducted for the benefit of the German Air Force, and that the German Air Force accepted the results of

the experiments for the benefit of the medical problems in the German Air Force; what would be your answer?

A If the Air Force learned about it after the experiments were completed, and saw that they had been conducted in a form which it did not approve, it would probably have drawn the conclusion for the future, that it would have to proceed much more carefully than in the first case. The second question whether the Air Force had instigated anything is, in my opinion, a theoretical question.

Q What would be your answer if we assume that the evidence shows that the experiments were conducted by and for the benefit of the German Army?

A. If that had been carried out by the German army, as you say for the Germany army, then I assume that there was a clear order from the army, and the one who issued this order cannot escape the responsibility to the extent that the experiment was conducted in the way in which he ordered it. Of course, the question is important here about the experimental subjects. If I recall correctly, you spoke of foreigners.

Q. In posing my question we have assumed, for the sake of the question, that these people are non-German nationals, incarcerated in concentration camps, German concentration camps, and that they were experimented upon without their consent. We assume those three premises for the sake of the question.

A. As far as the question of volunteers is concerned, one would have to say that as far as the experiment was to a certain degree dangerous, that then it is a prerequisite that the experimental subjects be volunteers. And I cannot imagine that in the Wehrmacht, according to the customs which prevailed in Germany, the idea would have come up to use foreigners for these experiments. There must have been special circumstances which I cannot judge.

Q. Then it is your opinion that it would have been impossible for medical experiments to have been carried out upon involuntary subjects in concentration camps who were non-German nationals whereby hundreds of deaths occurred without that fact becoming either actually or officially known to the high officials in the respective branch of the service under whose auspices the experiments were conducted. Is that correct?

A. I understood you to say, your honor, that the supreme authorities had ordered them in the interest of the branch of the Wehrmacht concerned. The knowledge of the experiment itself and the place where it was carried out would result from that fact alone.

Q. Let us assume, then, that the head of the - well, the head of the German army could have directly ordered such human experiments to have been conducted at Dachau, let us say. And, that in order to carry on those experiments it was necessary to have the human material sent from Natzweiler, and that it was also necessary to have the apparatus and equipment with which the

experiments were conducted sent from some other part of Germany, necessitating a considerable amount of detail in assembling in that one spot the persons who were going to conduct the experiments, the human subjects upon whom the experiments were going to be conducted, and the material with which the experiments were going to be conducted. And, let us assume, for the sake of the question, that many hundreds of such subjects were killed as a result of such experiments. Would it have been physically possible for such a program to have been carried on and yet the knowledge of that fact be known only to the man at the top who gave the order and the man at the bottom who executed the order? Would not necessary agencies and officials in between the man at the top who gave the order and the man at the bottom who executed the order have known about these things?

A. Your Honor, you said that all kinds of organizational measures were necessary. For example, bringing up instruments and apparatus. Then a subordinate agency must have received orders to have delivered these things, to have delivered them to a certain place, or to deliver them somewhere. I consider it quite possible that such intermediate agencies received such detailed assignments without knowing, or without having to know, for what purposes it was needed. There may be intermediate agencies which carried out a particular assignment but where it was not possible to see from the assignment what it was about.

Q. You do not exclude the possibility, however, that those intermediate agencies under certain conditions may have known the reasons for the experiments or why they were being called upon to produce certain equipment and material, do you, Doctor?

A. That they did learn something, I mean that according to this presentation it is quite possible that they did not know anything because in view of the strict secrecy that existed - one must assume that a war was going on - and in view of punishment for breaking secrecy, and in view of repeated orders and Fuehrer orders which were posted in every barracks and in every office, and there were all kinds of placards in trains, etc. In view of these circumstances everyone was allowed to learn absolutely what he

had to know. I am of the opinion that an order may very well have been given for a particular action and that the organization, even if a comparatively high agency, would not know the purpose. May I give an example that has just occurred to me? I believe in connection with the chamber it was learned here that the chamber was not delivered to Dachau at all but it was intentionally delivered somewhere else to prevent it being made clear that it was to be taken to Dachau because the name Dachau had a certain special notoriety. That would fit into this question.

Q. What do you mean by notoriety?

A. I mean the normal German knew only one concentration camp by name, whether because it was the biggest or oldest, I don't know. But, with the name concentration camp, the normal German of any class associated the name Dachau.

Q. How long had that been going on in the German nation, doctor?

A. We were all surprised and I have already said that after the capitulation until the 23rd of June I was perhaps under observation but still at liberty, and that I was able to read newspapers and that I was able to carry on conversations and I was able to learn that, for example, names like Ravensbruck, Belsen, Buchenwald, and others were unknown to all of the people to whom I talked, even the highest leaders, and I was able to note about the following situation. On the whole, that is, people coming from various districts, the name Dachau was known, and the name Oranienburg. I should like to say that the name Oranienburg must be identical with Sachsenhausen - that was the camp north of Berlin. That was the knowledge of concentration camps in the broad mass of the German population. I assume that persons who live at Weimar knew the concentration camp at Buchenwald, similarly in other places. No doubt if Germans had seen the experiences as I have seen them - and the same for Allies - there were dozens of concentration camps that everyone will be just as astonished as I.

Q. How long do you think that the German people knew of Dachau as being a notorious place? When do you think they first began to learn of that fact?

A. Perhaps I did not express myself right. Perhaps I should have said

that Dachau was better known. I did not mean that there was anything wrong exactly. I merely meant to say that among the population if anyone said anything against a political person there was said, "Be careful, you will be sent to Dachau." That did not mean anything especially was wrong about it, especially since assurance was repeatedly given that the people were treated not severely and they were kept in our field and hygienic field and there were exemplary conditions there. Later I heard something like that about Buchenwald, that accordingly everything was done, and whether it was in the hospital or in the whole camp or whatever it was that poor conditions began only as a direct affect of the air war, when, for example, instead of 10,000 there were suddenly 20 to 40,000 crowded there.

Q. At what time did that begin, Dr. Handloser, when the crowded condition began at Dachau, according to your knowledge?

A. I cannot give any exact indication about that. It is, no doubt, connected with the weakening of our front. I had the exact data on that but it was all taken away from me. Otherwise, every 50 kilometers the enemy advanced conditions became worse. Our hospitals were in the same situation. They were overcrowded three, four, ten times because so much area was lost and we were forced to overcrowd the remaining hospitals. I cannot give any exact figures. That depended on the progress of the war.

Q. You think the knowledge of the condition of Dachau, that is, the overcrowded condition, may have become known to you in 1942-43, along in that period?

A. No.

Q. Later than that?

A. Yes.

Q. Can you say that it was in 1944?

A. Aside from the influence of the withdrawal of the front, the point of the evacuation depended on the efforts of the air war and I cannot say from my own experiences that that began in 1943 and that we Germans knew, and from American official reports know that November 1943, aside from the Rhineland, from the west which suffered from attacks much earlier, that this began and

became more so in the section and in 1943.

Q. I have no further questions at this time, Dr. Nelte.

BY DR. NELTE:

Q. The questions which the Judge asked you were hypothetical, that is, assuming that what the Prosecution has presented is true, and that the experiments were criminal, now I ask for the approval of the Tribunal to ask a general question once more, because I must ask the defendant concretely about the fields of research with which he was concerned as Army Medical Inspector, so that you may see that the subject of the indictment was that experiments were conducted under his control too, but that he had nothing to do with those experiments which are the subject of the indictment. May I ask this question.

THE PRESIDENT: What is the question?

BY DR. NELTE:

Q. Will you please speak concretely and as briefly as possible and indicate the fields of research with which you were concerned as Army Medical Inspector?

A. I cannot give them briefly. There were quite a number of them but I can mention those which have any significance here. First the question of sulfonamides, I can only say that that was important with us since 1937, that we later had a central agency from 1941 on, which was especially interested in it, that was the special hospital of the OKH at Brussels, but I might almost say that all research workers, the specialists at the front, not only surgeons, but also bacteriologists and those especially interested in chemistry devoted special attention to this field, and that there was an unbroken chain of research workers beginning at the front and going deep into Germany, and that if one looks at the reports of our meetings, then one repeatedly finds the subject of sulfonamides, and finally one finds the fact that the question was not settled; that that is a subject, that was a field of research which was continued until the end of the war and beyond, and I personally after the invasion used special research troops in the West, only one of which actually came into action, and what we intended was no longer possible.

Q. What do you mean by "research troops"?

A. They were consulting physicians or specialists who had the assignment to establish special bandaging places at the front and treated the wounded in danger of gangrene with sulfanilamide and from the parts which had to be removed they took samples with them to the test tubes and tested them bacteriologically, and they carried out other experiments in test tubes, and they were not to let these wounded out of their hands, to pass them on to a different doctor every two or three days, but to follow them to a hospital in the west where these people are all collected and where in a large laboratory there is a possibility to complete this primitive research.

Q. Very well, that was the method of the research of the Army in the field of sulfonamides?

A. Yes, it was not completed with that, but I am supposed to be brief here.

Q. Now something else, which was mentioned here, hepatitis?

A. We have heard a great deal about hepatitis already, a field which was especially emphasized because it was new and it lasted until the last day of the war and was not completely settled, and as we heard --

Q. Just a minute. Where and how did you carry on research about hepatitis?

A. Now I must say something about research. One must distinguish between clinical research and laboratory or experimental research.

Q. Professor Gutzeit, I believe, has already told us that.

A. Therefore, I must tell you at the very front, operational areas, there cannot be any experimental research, but there can be clinical research, even in hospitals, which can be continued at home and that was what was done, and research on animals for experiments, that, of course, can only be done at home. Our workers, the consulting physicians did that, whether in the military sector or the civilian sector makes no difference, and other workers did the same.

Q. And concretely you were at the meeting in Breslau as Professor Gutzeit said?

A. Yes.

Q. What was the situation as far as you know at the time as Army Medical Inspector, and what do you know about experiments which had been conducted up to that time and was anything said about whether others were to be done?

A. My knowledge is limited to the big meeting on internal medicine on the 13th and 14th of October, 1943, in Vienna, where only animal experiments were reported on, and at the Breslau meeting where only animal experiments were mentioned. I went to Breslau from headquarters, especially for that one there and listened to the meeting at which Schreiber presided, and I was glad that Schreiber had succeeded in getting all of these scientists together who were partly in the army and who were partly civilian, and that they had agreed to the work which Schreiber had suggested and the exchange of results from one group to another. Nothing was said about experiments on human beings in concentration camps at this meeting. The meeting was in June, 1944.

Q. Now, another field, how about malaria?

A. Malaria - a disease in which we were greatly interested, of course, not only because of Africa, but because of the Balkans and other areas. The most terrible nest of malaria which I myself saw was in Salonika where it was even worse than in a field of particular interest, in the Caucasus, where I looked at the malaria prophylaxis of the Russians. My malaria expert was Professor Rodenwald. He has his tropical hygiene institute in Berlin at the military medical academy. He had zoologists and entomologists at his disposal there who advised him and he had special malaria training groups which were to go to the front in Africa, Italy and the Balkans and to look for the cause of malaria and combat malaria and hold courses for the doctors. A special laboratory train was created which was taken by rail to the worst places and several especially trained doctors helped the troops in

their prophylactic measures. In regard to malaria research we had a closed subject under Professor Rodenwald, who was a former military doctor. Before the war he was a Professor of Hygiene at Heidelberg, and our malaria question, as far as you would speak of it being completed, we had a very good prophylactic measure in atabrine, and for treatment through the new drug such as placimine. We had made considerable advance but I would not want it to be misunderstood, what I said before. The research was not completed and went on, and there were many problems to be solved, a certain advance had been reached from my point of view because I could issue an order regulating prophylaxis and treatment in order to prevent relapses.

THE PRESIDENT: There will be a recess of a few minutes at this time.
(A short recess was taken)

THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

SIEGFRIED HANDLOSER - Resumed

DIRECT EXAMINATION - (continued)

BY DR. NELTE:

Q. Witness, we have previously spoken about the malaria experiments and research which the Army and the Medical Inspectorate handled. The Prosecution has not presented any evidence that it was connected in any way with the malaria experiments at Dachau. Since, however, the Prosecution has claimed that in this respect, I must ask you the question: Did you or one of your offices have any connection with regard to the malaria experiments or with the experiments at Dachau which were there carried out by Dr. Shilling or by others?

A. No.

Q. Did you ever obtain knowledge of such experiments?

A. No.

Q. Now probably you will know from the field of your research, you will have regularly received reports. What was the procedure?

A. Do you mean generally about research or about malaria in particular?

Q. Malaria, sulfonamides, and what you have just stated, and all the other fields which we cannot mention and discuss because this could lead us too far.

A. I have received reports about this research in various ways. On one occasion through the consulting physicians who were personally participating in them or who were personally informed of them. Then, for example, through the Military Medical Academy or through their official reports which were frequently submitted to us. Also by lecture of individuals who visited me at Berlin and who reported about the state of affairs.

Q. Thus you received such reports from your field of competence. Now we have to determine how the field of your competence is correctly understood. We have already dealt with the question of the connection between the Wehrmacht Medical Service to the Waffen SS and we have determined that this concerned the frontal use of the SS. Now what were your connections to the Waffen SS in the Medical Service at home?

A. There were no connections whatsoever.

THE PRESIDENT: Counsel may inquire of the witness as to what reports concerning experiments he did receive, when he received them and from what branches of the service the reports came. I did not mean to restrict counsel's examination so strictly that he could not ask that question.

BY DR. WELLES:

Q. You have heard the question of the President. Will you please answer it?

A. In order to give a concrete example, for example, the Special Surgical Hospital at Brussels submitted the reports about its work directly to the Army Medical Inspectorate; then for the consulting physicians there was a report-collecting agency within the Military Medical Academy. First of all, all of the reports went there which the consulting physicians had to submit. They were there evaluated by the consulting physicians of the Army Medical Services, — evaluations about experiences and results or about questions which still remained open.

Q. Were they from the consulting physicians with the Military Academy or from others?

A. Exclusively from the physicians of the Military Medical Academy. And finally, in an abbreviated form, before they were sent out again to the front and at home, they also were brought to my attention. Or there were reports directly from the Military Medical Academy which also were sent to the Army Medical Inspector.

Q. Did you get the reports in other ways?

A. May I state with regard to the question of the President there were reports about work which had arisen within my field of competence as Army Medical Inspector.

Q. I then come to your connections to other fields. First of all to the Waffen SS at home. Did you know or did you have any official contact with the Armed Forces Institute for Research in the Ahnenerbe?

A. No, I did not even know that institute.

Q. Did you know the Hygienic Institute of the Waffen SS under Professor Brugowsky?

A. I only know that institute by name because before we were transferred from Berlin, I passed by the institute at Zehlendorf. I have never been inside. I did not have any contacts with it.

Q. Did you know the department for Typhus and Research in the Concentration Camp Buchenwald?

A. No.

Q. Were you yourself over in the Concentration Camp Buchenwald?

A. No.

Q. Now we come to one of the most important questions for you in this trial. On the basis of an entry in the Ding Diary it has been stated that Professor Bior, the Director of the Krakow Institute for Typhus and Dr. Bernhard Schmidt, of the Army Medical Inspectorate had visited the Buchenwald Concentration Camp. Did you order such a visit?

A. No.

Q. Was this visit reported to you?

A. No. Only from the documents about the Ding Diary I have found out about it here in Nuernberg.

Q. Will you please explain that to us -- how this can be possible

that this was not brought to your knowledge?

A. I cannot explain that because I don't know the reasons for this visit. Only the people concerned, Schmidt and Eier, can give you any information about that, or perhaps my Chief of Staff.

Q. Well, we shall question them as witnesses. According to this Ding Diary which I have already mentioned, by order of the Supreme Command of the Army, the Bohring Works, the Robert Koch Institute, and the Typhus and Virus Research Institute at Krakow, are alleged to have been ordered to produce yellow fever vaccine. Now according to the entries in the Ding Diary, a re-examination of the yellow fever vaccine took place at Buchenwald. It is stated also from Krakow. What do you know about it?

A. With regard to the question for the order of producing such a vaccine, I assume that that may have been the case because under conditions in Africa such a vaccine was necessary for us.

Q. Were you trying to find a yellow fever vaccine?

A. No, it was only a question of producing it. It was the procedure to produce such a vaccine which was simplified; it was only a technical production in the laboratory of the institute; the well known Poltior vaccine.

Q. The Ding Diary also mentioned the fact that shipments of lice, which had been infected with typhus, were sent to Buchenwald in order to infect people at Buchenwald do you know anything about that procedure?

A. No.

Q. Mr., President, in this connection and in order to clarify the state of affairs, I shall submit Document HA-13, in Document Book Handloser 11 on page 23 and I want to present it as Exhibit 9. It is an affidavit by the defendant Dr. Hoven. At the time Dr. Hoven was in the concentration camp Buchenwald, as you may know and he has personal knowledge of the shipments of lice and to this question he states, and I read:

"The shipment of lice, mentioned in the Ding Diary and in the testimony of the witnesses Dr. Kogen and Kirchheimer, came from Dr. Haas, Leow. I know this for certain because I informed Dr. Haas that the lice had been destroyed.

"I can therefore affirm, from my own knowledge that the statements of the witnesses Dr. Kogen and Kirchheimer - Dr. Kogen was not yet with Dr. Ding at that time - that the lice shipments come from the OKH Institute at Cracow are based on a misconception."

I request that this affidavit be accepted as evidence, as exhibit 9.

In the Ding Diary, the Weigel vaccine is frequently mentioned, because also the other vaccines which are mentioned in the diary frequently were used for re-examination; I want to ask you if this was also the

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case with regard to the Weigel vaccine?

A. Already in 1939 during the campaign in Poland, the army had its own typhus research institute at Cracow and it produced the typhus vaccine, which was taken from lice according to the Weigel method. This vaccine had already for many years before been tested in other countries and it had proved itself.

It had not only been tested in the laboratories and in experiments on animals, but generally it had been used as a preventative precautionary scheme. The army was producing this vaccine itself and there was no reason for so-called re-examination as it has been called here. This vaccine had been recognized in many fields.

Q. Where did Buchenwald obtain this vaccine?

A. I cannot say that, but there was only one very simple way. If the Waffen SS wanted to obtain this vaccine for its units at the front, then it was delivered to the main medical camp of the Waffen SS, was also delivered in the same way to other agencies and if the office of the Waffen SS wanted to have some of this vaccine, they probably may have turned to the main medical depot at Berlin.

Q. I am now coming to the main question, to the question of the typhus discussion. For this purpose I now hand to you Document Book No. 12.

THE PRESIDENT: Dr. Nelte, before we pass on to the next exhibit, will you have the witness state who Dr. Haas - H-a-a-s was and with what official agency he was connected at the time, which according to Dr. Hoven these lice shipments came to the camp.

DR. NELTE: You have heard the question, witness; do you know Dr. Haas?

THE WITNESS: I do not know him personally, I only know that Dr. Haas was the Director or a collaborator at a typhus research institute by the name of Behring which toward the end of 1942 had been established at Lwow. The institution had nothing to do with the Wehrmacht and as far as I know Dr. Haas was not a member of the Wehrmacht and what civilian agency was his superior agency at this Behring Typhus Institute at Lwow, I cannot say. I always considered it to be an industrial enterprise.

BY DR. NELTE:

Q. Mr. President, there will be witnesses heard with regard to this question.

As I stated, this alleged typhus conference which you will find in Document Book 12 requires detailed explanation. Mr. President, it is Document Book 12, page 36. Furthermore, the Prosecution in connection with this question has submitted an affidavit from the well-known Kapo Dietsch. This Document No. 1413 was subsequently submitted and I do not know its exhibit number by the

Prosecution. I therefore request that you read in Paragraph 6 what is stated about a discussion of Kapo Dietsch. There are two documents about this alleged discussion, page one of the Ding Diary and the affidavit by Dietsch. The Prosecution has not stated on what two Documents or which one of the two Documents it supports itself. Apparently, it is supporting itself on both. One mentions a discussion in November and the other one mentions a discussion of December 29th; now a preliminary question; do you know where you were on December 29th, 1941?

A. No, I cannot state that exactly. In connection with the date of December 29th, I only know that at the end of December, 1941, I certainly was at the headquarters and that for certain on the 31st of December, 1941, I was in the Headquarters - that was New Year's Eve. I cannot state with certainty if I was at the Headquarters on the 29th.

Q. I am asking the question in view of the 2nd entry on Page 1 of the Ding Diary, where it is stated in order to test typhus vaccine, the Concentration Camp Buchenwald has been chosen. It is not stated who selected the Concentration Camp Buchenwald, but with consideration to the fact that you are alleged to have been present at a discussion of December 29th, I would like to determine if it is at least clear that on the second of January you could not possibly have been at Berlin and it was impossible for you to take part in any conference.

A. On January 2nd I was certainly not in Berlin.

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Q. I now ask you to state your opinion if such a conference which is mentioned in the Ding Diary under the dateline of the 29th of December 1941 actually did take place with the same circle of persons and with the same contents?

A. I heard the first time of this matter after I had been arrested and I heard of it in the interrogation center at Oberursel towards the end of September 1945. There the interrogator read to me excerpts from a document which, as far as I know now, contained several things which are also mentioned in the Ding Diary. In general it dealt with experiments in the Buchenwald Concentration Camp.

I had stated that I only got to know the name of Buchenwald after the capitulation, and at the same time that I had never visited Buchenwald, and that the things which had taken place there were unknown to me. Then the interrogator said that it was superfluous for me to deny that because they had a photograph from Buchenwald where I was shown together with the Reichsfuehrer and Goebbels; furthermore, they had a record from Buchenwald which I was alleged to have signed.

I then replied to the interrogator that this was not correct, and then he said that these documents were already on the way, and that they would be presented to me at the very latest on the following day. However, this never happened and ever since these difficult days in solitary confinement,--

MR. MOHANEY: If the Tribunal please, first he asked him whether or not the meeting took place on the 29th of December 1941 and now we have listened for five minutes to the first time he heard about the meeting and what happened to him and who was going to present him with documents and so forth. I think it is all quite immaterial and I think if he would confine himself to directly answering the questions we would get along much faster.

DR. WELLES: May it please the Tribunal, I believe that the prosecution has not only devoted several hours to this fact, but several days, by reading all possible accusations.

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THE PRESIDENT: Counsel may proceed with the examination.

Q. (By Dr. Helte) Please continue!

A. Ever since I have naturally constantly occupied myself with this question. I can only state one thing in connection with it. That a conference in which that which has been presented here is alleged to have been planned, namely, to carry out illegal experiments on human beings, I have never participated in any such conference, and in connection with this I must state that I have naturally had discussions in the winter of '41 and '42 also with people from the civil medical service. That may have been Conti, and I probably also had discussions with Gildemeister. However, there the state of affairs was as follows: Toward the end of the year 1941 at the various places in the East, typhus began to appear to an increasing extent. There was no doubt that the number of cases was increasing.

The best remedy against typhus in itself is combatting lice. However, as a result of the surprise which was caused to us by the campaign in the East in June 1941 the medical service had not been able to carry out a delousing process behind the operation area ahead of time and also in the area of operations.

With the extension of the front in the East and in view of the fact that in the general government which formerly was Poland at Warsaw and other places, typhus occurred frequently the danger of a spreading of the disease to the homeland became increasingly greater. That the cases of typhus began to increase is shown by the very high numbers which typhus unfortunately reached with us in the years 1942 and '43. That it played a particular part is also shown by the dates which are not known to me anymore about the lectures with the chief of the general staff, where, for example, I think it was in January or March 1942, already 10,000 and several hundred cases of typhus had been registered, and I believe that 1300 of these cases were fatal. And I am unable to state anymore at this time if I reported to Generaloberst Halder the total number of the cases as they had occurred, only about the number which had been reached during the previous few months.

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Now, what was the preventive measure? We did have a vaccine which we were producing ourselves. However, we were very limited in its production. I can remember a number of 35,000 portions per month, and it may be that it is the number of December 1941. I had given the order that the production of this vaccine be increased at all costs. I can remember for certain that I had discussions about that subject at home and also that I probably have discussed it with Conti, and I am quite certain that I discussed it with Gildemeister.

I did this for a certain purpose and with a certain plan and I have to emphasize in this respect that I, as Army Medical Inspector, or even if I had already been the chief of the Wehrmacht Medical Service, which I was not at that time, I did not have any official influence on the civilian sector. I am of the opinion that at the time the question was first to describe the danger at home of this typhus situation at the front, which typhus might cause; and secondly, to also point out to them that the decontaminating procedure between the area of operations and the homeland had not been constructed to sufficient extent as yet or that it had only been established to quite an insufficient extent; and that during the winter period the chances were very slight that the construction could be improved.

Secondly, in my opinion, I have pointed out that we had a vaccine but only in such a limited extent that we were unable to give anything to the people at home except for some slight minor exemptions; and thirdly, I believe that I have asked Professor Gildemeister to get all previous experiments by us to obtain information as to how actually the other typhus vaccine would be used -- which was not one from lice but from chicken eggs -- by Professor Otto at Frankfurt, by the Robert Koch Institute in Berlin, and also by the Behring Works at Marburg, that actually Schreiber and I had not succeeded in obtaining any clear information about it, where in general this vaccine was being used and how effective it was.

I can remember that Gildemeister -- I don't know if it was in December

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or some other time -- told me that the production was facing difficulties because 50% and more of the laid eggs which were needed for it were being lost, and that in any case he could not succeed in gaining a success of 50% with them. Therefore, the vaccine which was produced by Otto in Germany and which later on was produced by a scientist by the name of Cox in the United States, what could be done with it with regard to its effectiveness, I could not obtain any information on that subject at all.

And I have certainly recommended to the men with whom I discussed this problem under consideration of the situation as it existed with us to do everything in order to now obtain this so far previously-lacking experience and to gain additional information. In my opinion, this could not cause any difficulties at all because in the civilian sector at that time good opportunities existed to carry out this test in areas in the East or in other regions where the danger existed and to test the matter.

Q. Now I want to come back to the question which now has to be put in such a way. Did you participate in any discussion with the circle of persons as it is stated in the Ding Diary?

A. No.

Q. Did you attend a conference which reached a resolution that, as the Prosecution has interpreted it, the typhus research was to be continued by carrying out experiments on human beings by infecting healthy people?

A. No.

Q. Was the vaccination of concentration camp inmates or prisoners from concentration camps discussed at all in the conferences?

A. No.

Q. In the course of such a discussion was your contact to institutes of the Waffen-SS, was it the subject of the discussions?

A. No.

Q. If I understand you correctly, your task was fulfilled when you pointed out the seriousness of the situation in the East to the Homeland and when you pointed out to them that the army by means of its institutes and its vaccines was unable to give any of it to the Homeland?

A. Yes.

Q. Do you know that paragraph 6 of the second document mentions the fact that Dr. Ding is alleged to have attended this circle of persons which is not mentioned in the Ding Diary itself? Have you discussed this question at any time with Dr. Ding?

A. No.

Q. Is the second Dietsch document Professor Rose has been mentioned. Did you discuss this question with him?

A. I have never discussed it with him at any time.

Q. Now as a precaution as Defense Counsel, I would like to ask you the following question: Will you please read the last sentence of the first entry which states: "Since animal experiment does not permit a sufficient evaluation, the experiments must be carried out on human beings." Now let us assume that this statement had been made in your discussions in this way. How would you have interpreted it?

A. If I read over the sentence and I do not know anything about the incidents as they have been presented by the Prosecution, as they are stated in the document here, I would not find anything at all which would cause me to be shocked because I would assume that the word "experiment", which more and more seems to an unfortunate word — he solely states that the mass experiment and the mass use of human beings must take place in order to finally reach the clarification about its effectiveness as a preventative on the whole which was still lacking, and I can point out in this respect that in an article by Geheimrat Otto, who in 1939 discovered this vaccine and who writes in this article; The Weigl vaccine which is being produced in Krakow, in China and still in some other city, has already proved itself for many years even on a large-scale use on human beings. The egg yolk vaccine had proved itself effective in laboratory experiments and in experiments on animals. The practical experience to a large extent is still lacking. That was written in an article which comes from the end of 1942 or the first part of 1943.

Q. Is it correct that this Otto vaccine was produced in 1941, '42, '43 and so on?

A. I can only actually speak about 1941.

Q. Was it only to a small extent?

A. Yes, by the Behring Works, by the Robert Koch Institute and by Dr. Otto himself.

Q. I shall now present a document. The Prosecution asked; I only want to know the following from you in this connection; it is possible that a vaccine of this kind also proves itself in relatively large individual experiments with three or four hundred people. Does this individual experiment not offer proof of the fact that it cannot possibly be dangerous in a large-scale experiment?

A. I have not understood the last part of your question.

Q. I mean the circumstance that a vaccine when it is applied to three or four hundred people in a single experiment, does it not offer proof and legitimation of the fact that it can be applied on a large scale?

A. Yes, this quite applies with regards to its compatibility, but we must with every vaccine differentiate between the effects and its compatibility. With regard to the compatibility, in my opinion no doubt existed anywhere with regard to the egg yolk vaccine, but people have different reactions to these vaccines, and if something of this kind is to be introduced with the Wehrmacht where millions of people are affected -- for example, until 1943 more than one million people had already been vaccinated with the Weigl vaccine, and this was still being continued. Millions were being vaccinated with it, and after all, millions would have to be vaccinated with this new vaccine. Then I need a more positive and more stable basis from a large-scale experiment which has to include at least one thousand people.

Q. How did you do it with the Army Medical Inspectorate in other cases?

A. First of all, as we did it with the Rohrschutz vaccine, we first of all made a small experiment with ten people in the academy, or first of all several dozen may have been included, and then after the good compatibility and the harmlessness of the vaccine had been determined, a troop experiment was made with a certain unit, and then it was exactly observed first how many people were unable to perform duty for how long or because of what complications, and then afterwards it was determined

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by the expert by means of examinations what the preventative situation was is the body of the person as a result of the vaccination, and when this result also was satisfactory besides the results of the compatibility, then before it was introduced, I reported to my military commanders about it, and then I vouched for the fact that the people would not become sick through any complications arising from the vaccination

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and that an immunization would be achieved within the time limits which all these vaccines have.

Q. Now, how do you explain the fact that at the beginning of 1942 the experiments were carried out in Buchenwald of which you have heard here?

A. Well, first of all, I must assume that this was done as it has been stated. However, I am not in a position to judge that in any way because I do not have any basis for it.

Q. In itself, there cannot be any doubt that infections were actually caused? Or, on the basis of the presentation of evidence do you have any objection to that?

A. As far as I know, I have not received any positive basis for it so far.

Q. You believe that you cannot make any judgment?

A. No, I can only make assumptions; they are not always good to use.

Q. In the affidavit of Balachowsky, document number 434, which is exhibit 91 of the Prosecution, document book 12, page 64, you will find the following entry:

"Para graph 4: In the chief committee of this department"--and I add "block 46, Buchenwald" --"the following persons are located:

"Dr. Handloser, Inspector-General of the Medical Service of the Wehrmacht.

"Dr. Conti, Dr. Peppondick, and Dr. Gonzken."

On this so-called Chief Committee, persons were instructed by you, Dr. Peppondick, and Dr. Gonzken..

Do you know anything about such chief committee?

A. In connection with this I can only report that I do not know the Buchenwald Concentration Camp, that I do not know the Institut for Typhus Research at Buchenwald, and that I have never had any contact with it. Therefore, I cannot have been a member of any superior committee, of which I have never even heard.

DR. HELKE: May it please the Tribunal, after the conclusion of this complex, I would like to present the following documents:

First of all, I would like to present an affidavit by Professor Reiter. It is document HA-25; it is located in my document book at page 38, and I present it as Exhibit 10 to the Tribunal.

MR. MCNEAVE: With respect to the affidavit of Reiter, the prosecution reserves the right specifically in this case to call the witness and subject him to cross-examination --- he is right here

in Nuernberg in jail; or, as an alternative, we reserve the right to submit a cross-affidavit from Reiter. In order that there be no misunderstanding, I would like to have it understood that the prosecution reserves such a right with respect to any of the affidavits being submitted, and that it will not be necessary for me to make that reservation on each occasion.

THE PRESIDENT: The prosecution may have the right to either call the affiant as a witness or to put in another affidavit or statement by the witness.

DR. MELTZ: I only want to point out that Professor Reiter has answered the question that he participated in any conference, as it is stated in the Ding Diary, on the 29th of December, 1941. He has stated in this connection: "I have not participated in any conference with this group of persons dealing with this subject." He further states that discussions about typhus did take place, but not in the way as stated in the diary. I therefore request that this document be accepted as --

MR. McHANEY: (Interposing): I ask that defense counsel be directed to read this complete affidavit into the record. He has merely paraphrased certain portions of it. It is quite apparent, on reading the affidavit as a whole, that Reiter himself admits that he did attend a meeting on or about the date mentioned in the Ding Diary. He goes on to state that there was some indication that there might be some suspicious experiments carried out.

I think it only fair that this affidavit be read into the record, since he is offering it.

THE PRESIDENT: The suggestion of the Prosecution is appropriate. The entire exhibit will be read into the record.

DR. MELTZ: "I, Professor Dr. Reiter, have been warned that I will be subject to punishment if I make a false affidavit. I declare under oath that my testimony corresponds to the truth and was given in order to be submitted in evidence to Military Tribunal

I, Nuernberg, Palace of Justice.

"The defense counsel of Professor Dr. Handloser, Dr. Otto Helto, has quoted to me the entry in the diary of the Section for Typhus and Virus Research of the Waffen SS, Buchenwald, of 29 December 1941, as follows", and I quote:

"Conference of Medical Inspector, Generaloberstabsarzt Professor Dr. Handloser.

"Reich Health Leader, State Secretary, SS Gruppenfuhrer Dr. Conti.

"President Professor Reiter, Reich Health Office."

"President Professor Gildemeister, of the Robert Koch Institute, Reich Institution for Combatting Contagious Diseases.

"SS Standartenfuhrer Lecturer Dr. Mrugowsky of the Hygiene Institute of the Waffen SS in Berlin.

"The conclusion was reached that it is necessary to test the compatibility and effectiveness of typhus vaccines made from chicken vitelline sacs. Since animal experiments do not permit adequate evaluation, experiments must be conducted on human beings." End of quotation.

"In answer to the question of whether I participated in this conference, I declare to the best of my knowledge and belief:

"I did not participate in a conference with this group of persons and with this result.

"I should like to add, by way of explanation, that the typhus problem and the danger threatening Germany caused serious concern at the end of 1941 among all authorities having any responsibility for public health. According to my recollection, I participated in one meeting at the end of 1941 or the beginning of 1942 which dealt with the typhus vaccine situation.

"This was one of the customary meetings in the Reich Ministry of the Interior designed to enlighten the head of the Health Section on a specific question. In general it can be said that Dr. Conti, who called these meetings and presided over them, reached his

decision independently, on the basis of the reports made to him according to the leadership principle.'

"In addition to Dr. Conti, Dr. Gildemeister of the Robert Koch Institute and Dr. Linden were present at the meeting on the typhus vaccine situation, as far as I can recall. I cannot remember that Professor Handloser, or any special SS representative attended. At this meeting Professor Gildemeister gave an orientation report to the Reich Health Leader, Dr. Conti, emphasizing the essential difference between the typhus vaccine produced in Lwow and Cracow by the Weigl method and the vaccine produced at the Robert Koch Institute in Berlin under the direction of Professor Gildemeister, according to the method of Geheimrat Dr. Otto of Frankfurt-am-Main. There followed a discussion in which the effect of the tested vaccine produced by the OKH Institute in Cracow and Lwow was particularly recognized, while the effect of the Otto vaccine was reported as being not so certain.

"The conference was broken off by Dr. Conti with the remark that he would discuss this question in the future with Professor Dr. Gildemeister alone.

"I did not attend any other discussion of this subject. The entry in the so-called diary, of the Section for Typhus and Virus Research can therefore not refer to the above-mentioned discussion.

"In the meeting which I mentioned, no conclusion was reached, as given in the entry. This is especially true of the following sentence: 'Since animal experiments do not permit adequate evaluation, experiments must be conducted on human beings.'

"Nor was anything said at this discussion of transferring experiments with typhus vaccine to the SS; that is, to the Hygiene Institute of the Waffen SS. Nor did I hear anything later on about the Section for Typhus and Virus Research, nor of the name Dr. Ding.'

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"Murnberg, 24 January 1947. Signed: Professor Dr. Reiter.

"The above affidavit was signed on 24 January 1947 personally in my presence by Professor Dr. Reiter."

THE PRESIDENT: The Tribunal will now recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

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THE MARSHAL: The Tribunal is again in session.

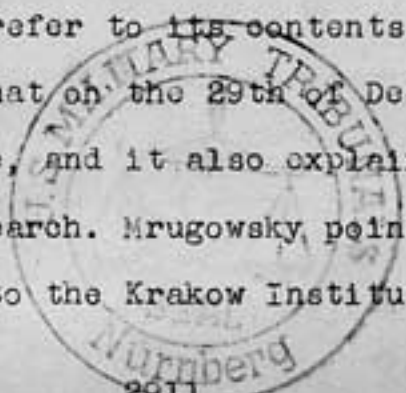
THE PRESIDENT: At this time the Tribunal desires to announce that at the close of the session tomorrow afternoon the Tribunal will be in recess until 9:30 Tuesday morning. This is done on account of conflicts with other Tribunals, so the recess at the end of the session tomorrow afternoon will be until 9:30 o'clock Tuesday morning.

The Counsel may proceed.

DR. NELTE: Another document on the subject, I submit an affidavit of Doctor Genzken. HA-26, Document Book 2, page 41. I offer this Document as Exhibit 11. It contains the statement of the defendant, Doctor Genzken, that he did not belong to any committee such as Balachowsky mentioned, and no such committee existed. I ask that this be accepted as Exhibit 11.

There are the same statements in the affidavit for Doctor Poppendick. This is Document HA-27, in Document Book 2, page 42. It also says, "I never belonged to a committee or central committee and I do not know of any such committee or central committee." I ask that this be accepted as Exhibit 12.

The third participant in this committee was Professor Mrugowsky, and I also offer an affidavit from him as Document HA-24, in the Document Book 2, page 25. This will be Exhibit 13, and in agreement with the Prosecution, I will not read this affidavit, but only refer to its contents. It contains arguments to the effect that on the 29th of December 1941, no such discussion took place, and it also explains the name for Typhus and Virus Research. Mrugowsky points out that the name which was announced to the Krakow Institute did not mean there



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was any official connection with the Krakow Institute. I ask that this Document be accepted as Exhibit 13.

Finally I submit a Document from Professor, Doctor Otto, who has several times been mentioned by the defendant on the witness stand. He is the inventor of the Typhus vaccine from chicken eggs. The essential point of this affidavit is to prove that in 1941, the Typhus vaccine produced from the intestines of lice, according to the Weigl method, is produced at OKH Institute in Krakow, and was the best vaccine at that time and did not require

any experimentation. I submit this affidavit, HM-44, as Exhibit 14. This affidavit is in Document Book 3, which unfortunately has not yet been translated and is not yet available.

THE PRESIDENT: This affidavit of Doctor Otto, where is it Doctor Nelte?

DR. NELTE: It is in Document Book 3 which is not yet available. It will be Exhibit 14 and 14-A; 14-A is a special reprint from a medical journal which the defendant Professor Handloser mentioned.

MR. McHANEY: The Prosecution, of course, reserves the right to object to the admissibility of this document when it is available in English. I have not seen it.

THE PRESIDENT: The admissibility of the document will not be considered until it is before the Tribunal and examined by the Prosecution.

DR. NELTE: Mr. President, the document is available only the translation is not yet ready.

THE PRESIDENT: I understand that, but it is not available to the Tribunal nor to the Prosecution, as I understand it, at this time.

DR. NELTE: Then, I ask that this number be reserved for this document.

BY DR. NELTE:

Q Professor Handloser, you mentioned the name, Gildemoister, with whom you had discussions at the end of 1941 concerning Typhus vaccines; is that true?

A Yes.

Q Professor Gildemoister is also mentioned in the Ding diary several times in the year 1942 as having visited Buchenwald, and Block 46. In order to clarify this, I ask you did Professor Gildemoister ever tell you of these experiments in Buchenwald, and the methods used in Buchenwald?

A No, never.

Q Doctor Koon, in his testimony, asserted there was a connection between the Typhus and Virus research at Buchenwald and the Military Medical Academy. He asserted that because Doctor Ding was at the meeting of the consulting specialists in May 1943, and made a speech in which he said that there was a connection between Buchenwald and the Military Medical Academy.

Will you please clear up this matter?

A Between the Military Medical Academy and the meetings, there was only one connection; that is, the Academy made its rooms available for the meeting, nothing else.

Q Did you hear Doctor Ding's speech at the Academy in May 1943?

A No, this speech was given to the group of Hygienists, and I did not participate in this group.

Q Was it reported to you?

A I heard that Rosa, in the discussion which followed, raised an objection, but that was not reported to me at that time.

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Q.- Did you not hear of it privately either?

A.- No.

Q.- To explain further a connection between Block 46 at Buchenwald and the Military Medical Academy, Dr. Kogen referred to the entry in the Ding diary which speaks of the control, the testing of the blood conserves. I will read you only one of the total of three entries. "22 September '43: Test of blood serum preserves. 16 January '44: on behalf of the Military Medical Academy, 18 ampules of blood serum were tested on 18 experimental subjects. 17 February '44: records of tests sent off." Then there is another such entry on the 25th of January '44 and in the 22nd of May '44.

Can you say anything about this, that is, about the fact that the Military Medical Academy sent blood serum to Buchenwald to be tested on human beings there?

A.- No, I can say nothing about that. I did not know of the event or the reasons for it.

DR. NELTE: Mr. President, at this point I should like to submit the affidavit of Prof. Fr. Konrad Lang as NA-38 in Document Book 2, page 56. Dr. Lang, whom I asked for an affidavit as the only request I had to make of him, answered the following:

"I, Konrad Lang, herewith state under oath the following facts which I know from personal knowledge: The serum conserves produced by the Army Medical Academy were supplied to the army from 1941 on and later also to the navy and the Waffen SS. All physicians using it were instructed to report about the therapeutic success, the compatibility, and possible incidence so that experiences could be collected. Therefore, a questionnaire was attached to each ampule. When filled out, it had to be returned to the Military Medical Academy directly. In addition to that, some university clinics, municipal hospitals and army hospitals currently received ampules for scientific testing and research. Also, all medical offices

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which were supposed to collect their own experiences before application on a large scale received ampules for experimental purposes.

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"The Military Medical Academy did not commission the Waffen SS to test serum conserves on prisoners. The entry in the Ding Diary that serum conserves were to be tested upon request of the Military Medical Academy and again that in the examination findings were to be sent away I can only explain by stating that all offices which used serum conserves were generally instructed to report on success, compatibility, and possible incidence. The Military Medical Academy never received any reports which showed that they emanated from concentration camps. I learned from conversations that the SS carried out on its own initiative the development of blood conserves and blood substitutes.

"The good compatibility and durability of the serum conserves produced by the Military Medical Academy was proved by 1941 and documented in scientific publications. From the many thousands of reports, one did not learn of a single case which showed permanent damage to health or a fatality caused by these serum conserves.

"I have read the one page of this affidavit carefully and signed it with my own hand..." and so forth. It is certified by a notary on the 15th of January 1947.

I ask that this be accepted as Exhibit 15.

Q.- Now, I come to the individual cases where it must be examined as to what your connection was as the chief of the Wehrmacht Medical Service with the research conducted in the branches of the Wehrmacht. The individual branches of the Wehrmacht, as we knew, had their own research institutes. You have spoken about this already. You have said that these were primarily specific experiments. Will you please tell me briefly what your powers were on the basis of the decree of 1942 in the field of research which we have not yet mentioned?

A.- It is nowhere set down precisely. Even after 1944 there was never any authorization or influence from me as chief of the Wehrmacht Medical Service on the specific fields of research of the Luftwaffe and

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the navy. These were fields which were specifically connected with those branches of the Wehrmacht and were thus automatically eliminated from my duties, which

were to coordinate the joint fields of work. I can, therefore, only say that I was neither informed about the work of these branches of the Wehrmacht nor did I have any supervision or other influence on this work.

Q But now it has been shown that the Luftwaffe, for example, carried on research which one cannot call specific Luftwaffe problems, for example, the typhus question. What is your viewpoint on this question?

A Scientific medical research is a subject which is not subject to military orders. It was never the intention and under the decree of '44 it would not have resulted that the chief of the Wehrmacht Medical Service was to prevent work's being done in general fields of research by anyone interested and capable; that he was to be eliminated by an order that he could not do it; that all others could do it.

My assignment of '44 is to be interpreted to mean that unnecessary duplication, where it is absolutely clear, and the use of personnel and materials unnecessarily, are to be avoided as far as possible. I was to consult the medical chiefs of the various branches of the Wehrmacht and their scientific consultants and find whether and how we could centralize the matter.

Q If I understand you correctly, you did not have the duty in such a case of coordinating but you could have coordinated if it had been expedient for this field of research.

A First, if I had learned of it and, second, if according to my information I had had the impression that this was unnecessary duplication, then I would have tried to prevent this duplication.

Q Did you learn of the typhus research which the air force carried on?

A No.

Q I must point out to you that in the typhus document book

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experiments are mentioned, conducted by Prof. Haagen, Strasbourg, on behalf of the air force and the Reich Research Council. Do you remember that?

A Yes.

Q Please take this document and look at Page 77 in this document book.

That is Document NO-306, Exhibit 296 of the prosecution. It is a letter from Prof. Rose to Prof. Haagen.

A. May I ask for the page again?

Q. Page 77, Page 74 in the English document book. The Prosecution believes that they see in this letter a connection with you, as chief of the Wehrmacht Medical Service, to the typhus research in Strassbourg. What do you have to say about that?

A. It says here that the inspector of the medical service of the air force is to approach the chief of the Wehrmacht Medical Service with the request to have typhus vaccines produced for the Wehrmacht. I can only say that the application made to the inspector was not realized. It did not come to my attention as the chief of the Wehrmacht Medical Service. This suggestion to vaccinate the whole Eastern Front is new to me.

Q. You will find in the book before you on page 79, a document, No. 137, Exhibit 298, page 76 in the English Book. That is an application of Professor Hagen to the Director of the University at Strasbourg with reference to five research assignments. Do you know these research assignments?

A. That is on page 80?

Q. No, Page 79.

A. No, I do not know these assignments.

Q. Will you please look in the document book on page 74. This is Document No. 370, Exhibit 292 of the Prosecution. This is an affidavit of the defendant, Rudolf Brandt, which Brandt gave to the Prosecution. Deals with experiments in the concentration camp Natzweiler. The defendant, Rudolf Brandt, told the Prosecution the following:

"Obergruppenfuhrer, Dr. Karl Brandt, Reich Commissioner for Health and Sanitation, General Assistant of Siegfried Handloser, Chief of the Medical Service of the Wehrmacht," and so forth and so forth, "naturally knew of the experiments by Hagen on human subjects. These men were informed of all fundamental events in the medical scientific research and these experiments could not have been carried out without their knowledge and approval". What do you have to say about this affidavit?

A. I can only say that Rudolf Brandt was mistaken. I do not know where he got the evidence for this statement.

Q. Mr. President, In this connection I submit Document HJ 14 in my Document book 2, page 24, Rudolf Brandt here declares in connection with what I have just read from his affidavit no. 370 I quote:

"This paragraph of my affidavit does not give actual facts. I cannot cite any concrete fact which could corroborate the opinion. On the basis of the interrogator's statement I assumed that this coincided with the actual fact."

I ask that this affidavit be accepted as Exhibit No. 16.

Now, since the Prosecution has dropped the charges of high altitude experiments, we come to the cold experiments. Were cold experiments conducted under your authority?

A. Yes, cold experiments were conducted by the Army Medical School in St. Johann.

These cold experiments concerned the adaptation to cold in the mountains for mountain troops. As far as I know they were carried out exclusively on German soldiers. I did not become aware that any of them suffered any harm from the experiments.

Q Mr. President, in this connection, I should like to submit Document H. 17. This is an excerpt from an essay concerning investigations on adaptation to cold.

Document, H. 29, it is in document book 3, document H. 49, which is in document book 3, and is not yet available to the Tribunal. This article which was written by Dr. Drömer, who has been mentioned several times here, concerns the experiments in the Mountain Physiological Institute at the Mountain Medical School at St. Johann, which was under the defendant, Professor Handloser, and contains an exact description of how these experiments were conducted, and it states that they were conducted on our own people, our own soldiers. With the customary reservation, I ask that this article, which the author mentioned in an affidavit by Dr. Kramer, I ask that it be submitted as Exhibit No. 17. Now the Prosecution has presented an excerpt from the report of the meeting concerning winter distress and distress at sea on the 26th and 27th of October, 1942, in Nurnberg. I shall have you shown the document book on the cold experiments. It is Document No. 401, exhibit 93 of the Prosecution, and in Document Book 3, page 86. You will find there a list of the participants in this meeting. In this meeting, Dr. Kramer from St. Johann's ---

THE PRESIDENT: What was the number, please, the number of the document?

DR. HELTE: Document 401, Exhibit 93, page 79. It is a Prosecution Document, your Honor, Document Book No. 3, page 79.

BY DR. HELTE:

Q Did you ever receive a report on the lecture of Professor Holzlochner at this meeting?

A No.

Q Following this meeting there seems to have been contact between Dr. Kramer, as the officer of the Army Mountain Medical School and Dr. Rascher, the well known experimenter at Dachau. Was anything reported to you or did you learn

anything of this contact?

A. It was not reported to me either officially, or unofficially, any connection between Kremor and Rascher.

Q. Was the connection between the Army Mountain Medical School and the Organization at Dachau reported to you?

A. No, and I should like to say that I am convinced that the very strict Command Officer of the Mountain Medical School at St. Johann would certainly have reported that to the Army Medical Inspectorate.

Q. Mr. President, I should like to submit an affidavit of Dr. Kremor and also of Dr. Schnoifor. Dr. Kremor says the following, and I quote. That is Document HA 37, document book 2, page 53. Dr. says the following:

"I attended as a representative of the Army Mountain Medical School the conference on the problems of low temperatures which was held in Nurnberg in the fall of 1942. I listened to the lecture by Professor Holzlochner and the remarks made during the discussion by Dr. Rascher. On my way back to St. Johann, I happened to share until Munich, the compartment with Dr. Rascher. Only once Dr. Rascher mentioned briefly his experiments and described them in the following way:

1. Experimental subjects: They were hardened criminals sentenced to death who had volunteered for the Dachau experiments to be given life and liberty having passed through the experiment.

2. Experiments: The arrangements for the scientifically conducted experiments was such that the experimental subjects survive if possible.

3. Results: As life-preserving measure for people who have been exposed to low temperatures, a hot bath of approximately 50 degrees is most feasible. To what an extent the description by Rascher is in accordance with the one given by him and Professor Holzlochner at the conference, or went beyond it, I can no longer recall.

In well calculated contrast to those experiments with human beings, which my collaborators and I opposed, and which, as far as I know, were never approved by the Army Medical Inspectorate either, I outlined for Dr. Rascher the manner how we, in St. Johann, had planned the experiments concerning adjustment to cold, and how we had made preparations for them with animal experiments.

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Only now did I learn from Document No. 1519-PS that Dr. Rascher pictured those ideas as his own and that he claimed that I desired to cooperate with him.

I pointed out I sent this document to Dr. Kramer at St. Johann.

"In St. Johann, we conducted experiments as to the adjustment to cold using ourselves and soldiers of the Army Mountain Medical School as experimental subjects, as described in the attached study taken from the Clinical Weekly Review."

That is the document which I submitted.

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"Even after Dr. Rascher's letter of 12 November 1942, no further connection with Dr. Rascher or a collaboration with him, which could have been arranged only through the Army Medical Inspectorate, was accomplished. As far as I remember that letter was never answered.

"The further collaboration which Dr. Rascher wanted was supposed to consist of Dr. Rascher borrowing scientific machinery and tools from the institution at St. Johann. I particularly remember that he asked whether it might be possible to make available a Haldane apparatus for the analysis of respiratory gases. The loan of any appliances from our institute would have necessitated a written request from Dr. Rascher which had to be submitted for decision to the Army Medical Inspectorate. Such an application of Dr. Rascher, as far as I know, never reached St. Johann whereupon it was necessary to send a report to the Army Medical Inspectorate. Neither did I submit a report about the Nurnberg conference to the Army Medical Inspectorate.

"I informed Dr. Schaefer, who at that time was my commander, on the conversation with Dr. Rascher and his letter to me.

"In conclusion I would like again to emphasize that at no time any collaboration between Dr. Rascher and the Mountain Physiological Institute of the Army Mountain Medical School which I conducted, was thought about because we did not desire it nor apply for it."

I ask that this Affidavit be accepted as Exhibit 18.

The next exhibit is the Affidavit of Dr. Schaefer, the Commanding Officer of the Medical School - Document HA-42 - Document Book II, page 66.

MR. McHANEY: This document appears on page 66 of Handloser Document Book II. Prosecution objects to its admissibility on the grounds that it is not sworn to nor certified before a Notary Public or Dr. Helte as defense counsel.

DR. HELTE: I do not know whether Mr. McHaney has seen this certificate of the Notary Knoelch on the original. The affidavit is certified as follows: "I certified herewith the above signature of Dr. med. Wilhelm Otto Schaefer of Bad Salzhausen who identified himself by his new German Identity Card, D 144 061,

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issued by the Landratsamt in Buedingen, 30 September 1946. Nidda, Oberhessen, 10 January 1947."

MR. McHANEY: Prosecution has no desire to be hypertechnical in these matters but since defense counsel chose to make such a large issue of this matter of sworn statements and the like during prosecution's case in chief, we are compelled to object to the admission of this document. No oath was administered in so far as it appears in this statement, nor is there anything which indicates that the certifying authority had the right to administer an oath, let alone that one was administered. We have offered several documents which were certified in exactly the same manner which were objected to and excluded on the same grounds I am now urging to the Tribunal.

DR. NELTE: It is correct that this document is not sworn. The heading above this document reads: "Affidavit". It continues, "Upon the request of Dr. Nelte, Defense Counsel of the former Generalleberstabsarzt Prof. Handloser, I make the following statement:" That is, in general, according to rules valid in Germany sufficient to designate the document as an affidavit. If the Court wishes that a further express statement be made in this form "I herewith declare upon oath" then I ask that this document be accepted temporarily and that a special statement from Dr. Schaefer is submitted later that he has made this statement expressly as an affidavit.

THE PRESIDENT: The Tribunal will accept the exhibit provisionally subject to it being later shown that the statement was sworn to or was made in lieu of oath under penalties of false swearing or perjury. It may be marked "provisionally admitted".

DR. NELTE: The document reads as follows:

JUDGE SEHRING: What is the exhibit number of this document?

DR. NELTE: Exhibit 19, Document Book II, page 66. Dr. Schaefer makes the following statement:

"1. The Army Mountain Medical School, which I commanded, was directly subordinate to the OKH/Army Medical Inspectorate. From its beginning

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Generaloberstabsarzt Prof. Dr. Handloser was Army Medical Inspector until he was appointed Chief of the Wehrmacht Medical Service.

"2. He established this school and laid down its principles. It existed from January 1942 until the capitulation.

"3. Among its tasks was the scientific research concerning the effects of high altitude on human beings with the aim of preserving health and efficiency. These questions were studied by the Research...../...".

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Group of the School in the Mountain Physiological Institute by specialists in the field of physiology. The head was the former Oberstabsarzt Dr. med. habil. Hans-Dietrich Cremer.

"4. Each and every scientific problem resulting from the Mountain service was submitted by me to the Army Medical Inspectorate for approval. This made it impossible that any official connections to other research establishments could have existed without my knowledge as commander of the Army Mountain Medical School and therefore, without the knowledge of the Army Medical Inspector.

"5. A collaboration between the school I conducted and Dr. Rascher never existed. Never did I issue order concerning the establishment of contacts to Dr. Rascher, whom I did not know. Any relations of Dr. Cremer to Dr. Rascher (Compare the file notes of Dr. Rascher)....."

This is the same document which Dr. Cremer mentions.

"therefore must have been of merely private nature. It is therefore impossible that any contacts between Handloser and Rascher could have been maintained through my school.

"6. Cold experiments were conducted at my school under scientifically correct, medically ethical conditions; they were performed with animal experimental subjects and physicians and medical personnel who had volunteered for that purpose. The method and the results of this research work were published in a special issue of the "Clinical Weekly Review" which came out in the Fall of 1944. I am in a position to name at any time a number of German Scientists who can give information about the scientific, medical and ethical methods of this school which I conducted under the supervision of the Army Medical Inspector."

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Now I submit this document as Exhibit 19. The next document I do not want to read. If the Prosecution agrees, it is the affidavit of Generalarzt Hartleben who belonged to the Organizational Section of the Army Medical Inspector, Professor Handloser.

I asked Dr. Hartleben to speak about conditions at the Army Mountain Medical School and the connections between this school and the Medical Inspectorate. He does so in an affidavit, document HA-40, in Document Book II, page 60, which I submit as exhibit 20.

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The question of malaria experiments was settled by our examination this morning. I should like to ask the Tribunal whether under these circumstances I may submit an affidavit which I obtained by way of precaution from Professor Rodenwaldt whom the defendant Professor Handloser mentioned several times. He was his specialist on malaria questions and he stated in an affidavit that experiments in the field of immunization against and the treatment of malaria new drugs on and with human beings were not conducted. He goes into detail. This is in Document Book II on page 1. In this case I would have to ask that I may correct this to the form described by the Tribunal later. This affidavit was given at a time when the ruling of the Court had not yet been made known, at least not at the moment when I addressed Professor Rodenwaldt. I ask that I may be allowed to submit this as exhibit 21 provisionally and I will submit the new form later.

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THE PRESIDENT: That is the proposed number of this exhibit, Counsel?

DR. NELTE: Exhibit 21.

THE PRESIDENT: The exhibit may be previously admitted, subject to the form being later made to conform to the Tribunal's rule. .

BY DR. NELTE:

A. Now we come to the Lost Gas experiments. I will show you Document Book 13. I refer to Document NO 097. I do not know the exhibit number. It is in Document Book No. 13, on page 19, Mr. President. This is a report which Professor Hirt sent to the Ahnenerbe which Dr. Sievers presented to the Reichsfuehrer SS. (Page 20 in the English Document Book), Do you know Professor Hirt?

A. I never saw him and I never talked to him.

Q. This report, which I showed to you once before, NO 097, page 19 is a report which Professor Hirt makes about a report which he had previously made to an Army Agency and that latter report is the one I would be interested in, in connection with you. Do you know anything about such a report?

A. No. I cannot see here what the date of the report was.

Q. The report which you have before you is of the year 1942. Have you found it - NO 097 - it is the enclosure to a letter?

A. Yes, I have found it. Yes, "Secret Report about" etc.

Q. Yes. This report before you was made in the year 1942. This is shown by the letter which Dr. Sievers writes.

A. I do not know this report.

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Q. In this report which you should look at, reference is made to a report which Hirt made in 1940 when he was still a Wehrmacht Medical Officer to a Generalarzt, a superior of his at that time, and he reports here about experiments which he performed on Lost in the year 1939 until May 1940. He writes that in 1940 he had to interrupt this work because he was called to the front at the beginning of the war against France. If you were to read this report you would see.... I do not believe, Mr. President, that it will be

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necessary for him actually to read this report. I spoke of it in my opening statement but I pointed out that the report speaks only of animal experiments and experiments on 2 cadets at the Military Medical Academy. The only thing important here is the following page 3 of the report; it says: "A transfer of these experiments to human-beings could not take place because I had to return to my unit at the beginning of the Offensive against France. The Prosecution refers to this sentence and intends to prove with this that a medical office of the Army knew about medical experiment --Lost gas experiments-- on human beings and instigated them or at least knew of them. Will you please say what you have to say about this matter?

A. First I must say about this report that I did not know of the incident but since 2 cadets are mentioned and since he says that in 1939 or 1940 he was at the Academy, it is clear to me that he saw the experiments there which I might say were almost constantly conducted on our cadets, that is, the medical students, under an assignment by which the Academy had to find a method for treating Lost damage to the human skin. There were dozens, perhaps many dozens of cadets who volunteered for this experiment until, I don't know whether it was 1942 or 1943, the desired ointment was finally discovered. I must conclude that if Dr. Hirt in 1939 and 1940, that is at a time when I did not yet have anything to do with the Academy, if he participated in such experiments on cadets or watched them, then the concluding sentence here that he was occupied with new experiments on rats and that he wanted to transfer such testing of treatment to human-beings, was again a question of volunteers, in any case with us in the Academy. Therefore I am not able to draw any conclusions from

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this sentence. I can only refer to the fact that the
Academy conducted

these experiments to discover a Lost ointment on volunteer students and that Hirt mentions these 2 cadets in the year 1939 or 1940.

Q The report made in 1940 — you did not receive this report?

A I could not have received it because in 1940 I had nothing to do with the Academy.

Q It might be possible that the Generalarzt to whom the report was given in 1940 was your subordinate as Army Arzt — you did not learn of it in that capacity either?

A No.

Q Now the Document NO 372, Document Book 13, Page 1, has been submitted by the Prosecution because there are no other documents in Document Book 13.

THE PRESIDENT: If Counsel can give the Tribunal the exhibit numbers of these documents which have already been admitted, it will be convenient.

DR. NELTE: No. 252. As I have already said, Document Book 13,

Q In addition to the report already mentioned, which you did not know, there is also Document NO 372, an affidavit from the defendant Rudolf Brandt, who says that in addition to Karl Brandt and the other persons mentioned, Handloser and Rostock must have known of these experiments. I therefore ask you, did you learn of any Lost Gas experiments such as were the subject of the Prosecution's case here?

A No.

DR. NELTE: Mr. President, in this connection I submit an affidavit from Dr. Rudolf Brandt, Document HA-4 in Document Book 2, page 3, as Exhibit 22. Rudolf Brandt says:

"In my affidavit dated 14 October 1946 (Document NO-372)

I testified to my alleged knowledge of the LOST (Mustard) gas experiments on human subjects. The last paragraph subsequent to this testimony reads as follows:

"In addition to Karl Brandt and the other persons mentioned above, Handloser and Rostock must have had knowledge of these experiments."

"Concerning this I declare the following:

"My statement in this case is a mere assumption which I pronounced only in reply to a corresponding question of the interrogator. I can give no factual data for this assumption. I have never had any associations, neither official nor private, with Professor Handloser."

I ask that this affidavit be accepted as Exhibit 22.

Q Professor Handloser, in the various counts of the indictment it is repeatedly said, and again in the Lost Gas Experiments, that your responsibility can be deduced from the fact that the experiments were conducted in the interests of the Wehrmacht. I should like to ask you to say whether any experiments conducted here of which it is said they were conducted on behalf of the Wehrmacht, necessarily had any connection with the agencies of the Wehrmacht as instigators or as participants?

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A. I am considering what example one should give. One must realize that, for example, in the whole field of communicable diseases that the Wehrmacht particularly during the war was especially interested; but these are fields where even under normal circumstances and especially under the living conditions, which became constantly worse during such a large war, the whole state is equally interested. As I have already said, that not only the research workers of the Wehrmacht were interested, but every research worker who conscientiously took an interest in such things - and I should like to add that formerly the Wehrmacht was predominately interested in the things and problems dealing with wounds, but in this war that was changed completely. Through the air raids, which had existed for years and were constantly increasing, which one could compare with a heavy barrage of gun-fire on the civilian population, the doctors at home were equally interested in wounds, injuries, and burns as the doctors at the front, so that finally one can say not only in the field of internal medicine and the field of communicative diseases, but also in the entire field of injuries the interest was definitely a common one and one can no longer specify Wehrmacht interest.

Q. You take as an example epidemics, which are probably especially convincing, but I should like to come back to your statement of this morning where you spoke of the group of people for whom you as chief of the Wehrmacht Medical Service and as Army Medical Inspector had to carry medically. You said that first they consisted of the soldiers, members of the army; 2, the relatives of the soldiers at home; 3, the occupied territories and the population and 4, Prisoners of War.

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And particularly in the charge against Professor
Handloser

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I want to prove that he, as Chief of the Wehrmacht Medical Service, was obligated to care for the Prisoners of War. I have gathered the evidence for this and ask that it be accepted. It is first, Document HA-5, Document Book No. 1, Page 27. This is an excerpt from the War Medical Ordinance of the Army. It deals with the medical service in Prisoner of War camps. I offer this as Exhibit No. 23.

Then, I submit Document HA-5-A in Document Book No. 1, Page 29. This shows that the duty of the medical officers in the rear areas was to care for the civilian population and the Prisoners of War. I offer this Document as Exhibit No. 24.

I offer the affidavit of Generalarzt Dr. Walter Penner, HA-6, Document Book No. 2, Page 4. It contains a general presentation of the observations of Generalarzt Dr. Penner of the defendant Handloser. I do not want to offer that in this connection, but I should like to come back to the letter. The reason why I mention it now is the fact that Dr. Penner points out that Professor Handloser issued orders corresponding to humane treatment and dealing with the medical care to be given the population of the occupied territories. With the approval of the Prosecution, I should like to offer this Document as Exhibit 25 without reading it.

And now I have two special Documents of the Swedish Colonel, Dr. v. Erlach - HA-7 in Document Book 2, Page 7. This Document I should not like to read in its entirety, but only insofar as it contains the question, which we have dealt with, the treatment given the Prisoners of War and Professor Handloser's connection with this matter.

Dr. v. Erlach, who was chairman of the Medical Commis-

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sion in Germany from the summer of 1940 until the late fall of 1944, knew conditions in Germany. He limits his testimony

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since he deals with three nationalities and not the Russians. He says:

"The medical care given to the prisoners of war in German Prisoner of War Camps and hospitals for prisoners of war can generally be called good. The effects of the participation and use of 'enemy doctors' for taking care of the POW's was particularly beneficial. Cooperation between the German camp doctors and the enemy doctors was gratifying in general. In the course of the war, the German camp doctors and the enemy doctors was gratifying in general. In the course of the war, the German camp doctors were professionally used also outside the camps to take care of the civilian population, and had, therefore, become overburdened with work to such an extent that the prisoners of war were in many cases almost exclusively in the care of enemy doctors.

"Until the end, there were clear differences in the medical care given to the prisoners of war in the various Service Commands. This circumstance clearly showed how very much depended also in this case on the personality of the medical officer in charge of such a command, and of his assistant handling matters concerning Prisoners of War. Deficiencies observed were regularly communicated to the representatives of the Armed Forces High Command, the prisoner of war organization, to the medical inspectorate, as well as to a representative of the Foreign Office, at the closing meeting of the mixed commission. The medical inspectorate, which subsequently became the Medical Services of the Armed Forces, often

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issued special instructions to the medical officers in charge of Service Commands during the time until the next meeting of the mixed commission, in order to remove the deficiencies which had been criticized at the closing meeting.

"It must, therefore, be stated that Generaloberstz-sarzt Prof. Dr. Handloser omitted nothing to improve the medical care of the prisoners of War during the World War - 1939 - 1945."

Then it goes on to say:

The second question: "Did the medical care -considering the possibilities existing in Germany - correspond to the provisions of the Geneva convention and to the principles of generally practiced medical treatment of human beings?"

The answer:

"As soon as the provisions of the Geneva Convention had become known to all German agencies concerned, the Medical care in Germany corresponded in general with the principles of the Geneva Convention.

"The chairman of the mixed medical commissions were able to state that good will prevailed and that efforts were made to observe the provisions of the Geneva Convention.

"The Generaloberstabsarzt Prof. Dr. Handloser always favored a medical - humane treatment of the Prisoners of War. As a consequence of the development of the war in the direction of a 'total war' in particular, however after Prisoners of War questions came under Himmler's jurisdiction in July 1944, the fate of Prisoners of War became considerably worse also in its medical - human aspects. This applied in particular to members of enemy air forces. The x-raying of Prisoners of War was limited to a minimum owing

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to the shortage of x-ray films, in the same way, the supply of the Prisoners of War with artificial teeth broke down progressively.

"But I would like to state explicitly that this decided turn for the worse in the fate of the Prisoners of War occurred completely outside Generaloberstabsarzt Professor Dr. Handloser's jurisdiction."

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I will not read the answer to Number three, because it concerns the personality of Dr. Mandloser; I will do that later. With reference to this Document, I offer this statement of Professor Dr. v. Erlach as Exhibit No. 26.

THE PRESIDENT: The Tribunal will now be in recess.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

DR. NELTE: I now want to offer to the Tribunal Document No. HA-46 in document book No. 2 on page 70, and I offer it as Exhibit 27. This is an answer to the questions to Colonel Brunner at Kuesnacht in Zurich, a physician who knows conditions in Germany as a result of his official task.

If the Prosecution does not put any special emphasis on it, I do not want to read the answers, because in general the answers contain the same judgment which was also expressed by Dr. von Erlach and which I have already presented. The only thing of importance seems to be in question number 2 that the medical care was in accordance with the Geneva convention and international law that human medical treatment was given. "In any case, as long as I worked in Germany as chairman of a medical commission from June, 1940 to 1942."

In this case also I would like to later on read the character judgment of Professor Handloser, that is, when Professor Handloser is not on the witness stand anymore. I now offer this document as Exhibit 27 and request that it be admitted in evidence.

BY DR. NELTE:

Q. Professor Handloser, I am now handing to you document book number 10 about sulfanamide experiments. In this book in page 94 you will find Document No-472 which is contained in document book number 10, Exhibit 234. In this document No. 472 on page 94 there is an affidavit by Dr. Fischer.

DR. NELTE: It is on page 96 of the English document book. Because of paragraph 7 of this affidavit, the Prosecution has presented it in the accusation and in the case against Handloser, and paragraph 7 states:

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"When the sulfanilamide experiment started, I was told by Professor Gebhardt, my military and medical superior, that these experiments were carried out by order of the Chief of the Medical Office of the Wehrmacht and the Chief of the Medical Office of the State."

Q. Did you as Chief of the Wehrmacht Medical Service or in any other capacity give such an order to Professor Gebhardt, or did you pass it on from a higher agency, according to which the experiments carried out by

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Dr, Gebhardt, Oberhauser and Fischer were ordered?

A No.

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May it please the Tribunal, I am now presenting two affidavits by Dr. Gebhardt and Dr. Fischer. This is H-8, in Document Book 2, page 12, and I offer it as Exhibit 28. Dr. Fritz Fischer states in this affidavit: "I have signed an affidavit which in the present trial has been submitted as evidence by the Prosecution." In paragraph 7 of this affidavit it is stated, and then follows what I have just read. And, I continue with the affidavit of Fischer: "This affidavit originated under circumstances which I am going to explain in detail when I shall be questioned on the witness stand. In reply to Professor Dr. Handloser's Defense Counsel, I declare that it is not correct to say in the affidavit Professor Dr. Gebhardt had told me that the experiments must be performed by order of the chief of the Medical office of the Armed Forces. Nor did I make such a statement. I must emphasize in this connection that the interrogation took place in the English language, and that the above affidavit dated 21st October 1946, represents a summary of a long interrogation record. This summary, which was drawn up by members of the Prosecution Staff, was submitted to me ready for signature. I, myself, don't master the English language sufficiently well to have myself noted this misunderstanding, but since I have, myself, no knowledge of such an order of the chief of the Medical Services of the Armed Forces, Professor Dr. Handloser, I hereby rectify item seven of my affidavit, dated 21 October 1946."

I request that this Document be admitted as Exhibit 28.

In the affidavit, H-9, Document Book 2, Page 14, which I am presenting as Exhibit 29, Dr. Gebhardt has stated the

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following: "It is not true that I ever told Dr. Fritz Fischer that these experiments were being carried out by order of the Chief of the Medical Office of the Wehrmacht. In this connection Dr. Fischer must have made a mistake, or the affidavit dated 21 October 1946 must have been based upon a misunderstanding of the facts given by Dr. Fritz Fischer. At any rate, I am not aware of any such order from the Chief of the Medical Service of the Wehrmacht, Professor Dr. Handloser. Nor did I discuss it with Professor Dr. Handloser before the beginning of this experiment. The experiments for testing the sulfanamides were carried out on Hitler's and Himmler's orders, upon direct instructions from the Reich Physician SS and Police, Dr. Grawitz."

I request that this affidavit be admitted as Exhibit 29.

Q. What was Professor Gebhardt's connections to you?

A. Professor Gebhardt was a chief Hygienist for the Reich Physician SS. And, neither as Army Medical Inspector nor as Chief of the Wehrmacht Medical Service did he stand in any official connection with me.

Q. In an affidavit presented by the Prosecution, of Dr. Fischer, it is stated that you had participated in the ten years' anniversary at Hohenlychen: is that correct?

A. No, that is not correct. Dr. Fischer is making a mistake there. I have not participated at the ten years' anniversary celebration nor did I know anything about it. I never received any invitation to attend it.

Q. Did you ever have any official contact with nursing home at Hohenlychen?

A. I did not have any official contact; however, I must state here that the following incident occurred: It may probably have been in the year of 1942 when Conti or Gebhardt, I do not remember exactly any more, came to see me in my office at Berlin, and they requested to enter the Kuratorium of some nursing home at Hohenlychen. I would not be spending my time too much in any other way, but after the men had suggested Dr. Waldmann, since he had been in the Kuratorium; they also considered it desirable that I, as a successor, would also enter the group. I had no cause not to comply with the request, and there was no cause for any objection on my part.

Q. Did you participate in any section of the Kuratorium, this committee?

A. I have not participated in any discussion nor have I ever received an invitation to attend such a conference.

Q. The Prosecution has stated here, in connection with the Conference of Consulting Physicians in 1944, has described Hohenlychen here as the center of the SS. Can you state anything in connection with it?

A. Yes, I can make the following statement: I cannot understand this opinion because prior to the war Hohenlychen was a well known hospital center which, as far as I know, was also well known outside of Germany, and where from all circles of the population, patients were accepted there. And, where above all, surgery was practiced in special fields, and where special confidence was gained in this field. As far as I can remember and from my memory, I can state

that we, in the Wehrmacht, sometimes were really glad that our officers, these included high officers, whose relatives if, for example, they were suffering from joint disease and where they needed operations, they did not go into our hospitals; for example, in Berlin we had an excellent surgical specialist, but they believed they could only be helped at Hohenlychen. This applied also to injuries occurred in sports, especially injuries to the joints of the knees. And, about the center of the SS, I understand any institution which works strictly according to the political practice of the SS, but which is not a hospital with three hundred civilian patients from all classes of the population, and with three and four hundred wounded and sick soldiers of the Wehrmacht, and furthermore an additional three hundred injured and sick patients of the Waffen-SS are located. What I want to say is, that according to the whole constellation, I do not find any cause to see that the hospital at Hohenlychen was the center of the SS. In order to make this statement complete, I only want to add here that I have seen Hohenlychen for the first time; that I have visited several stations there on the occasion of the Conference of the Consulting Physicians in May 1944.

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The facilities there, especially those for the subsequent treatment of severe injuries and where arms and legs were again restored to activity, were so impressive to me that later in 1944 I sent my son there. He had been severely injured in the Caucasus and was severely hampered in breathing because of four of five operations in his chest. I also brought him to Hohenlychen because, I have later on repeated, I could not have found any better institution for that purpose; and I really would had quite a number of hospitals at my disposal for my son.

Q. Why was Hohenlychen selected for the conference in May 1944?

A. It was selected for the following reasons. The previous conferences took place in the Military Medical Academy at Berlin; also the conference of May, 1943. Ever after the air attacks on Berlin in the fall of 1943, which increased to an enormous extent every month, the Military Medical Academy had suffered some sort of damage in every one of the air attacks. After the severe attacks in the middle of February and in March and in April of the year 1944 the Academy had been damaged to such an extent that it could not be utilized at all any more. In addition to this, because of the constant air alarms, even if no actual attacks were taking place, there would have been no possibility in Berlin or in its vicinity to hold any meeting there where after all two hundred to three hundred physicians had to be billeted there for a period of two days.

Therefore, I was confronted by the problem when I came to Berlin on one occasion in April of actually not knowing where I should go for this conference whose preliminary work had already been concluded. At that time Prof. Gebhardt

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offered Hohenlychen to me; and I really was very glad to accept this offer which later on was confirmed by the Reichsfuehrer. Hohenlychen was about ninety kilometers from Berlin; and around the vicinity there, not only in the vicinity of the hospital but throughout the region, no bomb had ever been dropped; and we actually were able undisturbedly to carry on the conference from the 16h to the 22nd. That was the only reason why this conference took place at Hohenlychen.

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Q. At the conference at Hohenlychen in 1944 how many reports were presented?

A. Outside of the printed report, 168.

Q. How many of these were by SS physicians?

A. Three.

Q. On Page 96 of the document book you will find NO-619 about the meeting and conference at Hohenlychen. This is Exhibit 236. About this list of the participants Dr. Fischer states in one of his affidavits that the lists contained in Document 619 are representative lists of all these who participated in all four conferences. Is that correct?

A. No. In this case it was forty. In this case Fischer is mistaken. The participants in the four conferences were only in part the same; and probably it should not be a representative list but lists of these present.

Q. I think that it should be a representative list; that these participants actually represent the conspirators in their entirety, who regularly attended the conferences of the consulting physicians. Perhaps Dr. Fischer has not meant it in this way; but that is the way in which it was presented here.

A. Well, this is completely out of the question because the participants in these conferences which took place participated for the following reasons. The Wehrmacht branches were able to express their wishes toward the subjects to be discussed as well as those who were working the speeches. Then these people who had to be there were selected by me either because they were to give a speech or because they were told to participate in discussions or because they were specialists in the particular field.

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Of the number which resulted then there were those who had to participate in an official capacity. There were a certain number of medical officers from the medical inspectorate of the Wehrmacht branches. Then it was determined how many persons could still be accommodated;; and this number was divided into army, Wehrmacht, Luftwaffe, the Waffen SS, the labor service; and then it was left to the branches of the Wehrmacht to send whom they wanted to the places which were put at their disposal .

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Therefore, regular members were only those who had something in particular to do with it in their official capacity or with regard to their skill.

Q. Now, let us refer again to the experiments at Ravensbruck. It has been determined that you did not have anything to do with the beginning and the execution of these experiments of Prof. Gebhardt and Dr. Fischer. With regard to these experiments which were carried out at Ravensbruck, were there any lectures held by Prof. Dr. Gebhardt and Dr. Fischer on the invitation of the conference in May 1943 at the Military Medical Academy? Did you attend the speeches by Prof. Gebhardt?

A. I assume yes.

Q. You say you are making an assumption. Don't you know that for certain?

A. Yes. I really cannot remember the speech any more. However, it is actually impossible that I should not have been there because in the course of that conference the first day I made an official and rather long address. I opened the conference and then built the framework of the specialist group for surgery; and then the working session of the surgery groups commenced.

In this conference about six or seven lectures were given on sulfanilimide experiments; and I assume for certain that I attended. I cannot remember the address; I cannot remember any details. It may be that after I came from my opening speech then I occupied myself with all the other questions. I can only say one thing. It did not have an effect on me to the extent that I was especially impressed or that he should have given me any cause to reach some conclusions.

Q Then I cannot actually address any further question to you with an objective content. Therefore, I can only ask you questions after you have received knowledge here of what has been said here. How do you explain the fact that this lecture did not cause any particular reaction of yourself. Is there any plausible explanation for that?

A Yes, there is only one explanation, that the lecture according to its formation and after the description of the course of the medical measures caused the impression that they had been done in accordance with the rules of the medical profession.

Q If after the conclusion of every lecture a discussion took place, were you present at the discussions?

A Yes, I am quite certain of that.

Q Did anybody make objections then with reference to the lectures by Gebhardt and Fischer?

A As I gather from the report of Dr. Schweiss, speaking on the subject immediately afterwards, and at the conclusion of the sulfanilimide lectures there were about six or seven, to which those of Gebhardt and Fischer also belonged, about six or seven people spoke in the course of the discussion.

Q Did not any complaint reach you subsequently through official channels or any voice of opposition?

A Neither after the lecture, not in the recess which was called, nor during the lunch which was also taken in the Academy or in the course of the day or the following day or any other time nobody approached me in any way, who expressed that he had the impression that something unjust was being done here which would call for opposition.

Q Had the lecture by Gebhardt and Fischer been submitted to you before the conference?

A No, that would have been somewhat difficult because in the first half of the month of May, 1943, I carried out inspections in Italy, Greece and Crete, and then I returned to Berlin and I stayed there for

a very short period of time and then I went by plane to the headquarters, and I only returned to Berlin a very short time before the conference, but even in the course of my very brief stay in Berlin, where I certainly asked the working staff of the conference if everything was going in order, because it was rather difficult to organize something of this kind, and if there were any special questions, nothing was brought to my attention, any complaint about the lectures and about the course of the coming conference.

Q May it please the Tribunal, with regard to this complex, I request to present the following document, first of all affidavit by Professor Dr. Frey, Document HA-10, Document Book 2, page 16, which I offer as Exhibit No. 30, Professor Frey's answer to the question:

"As far as the field of sulfonamide experiments and experiments with bone, muscle and nerve regeneration, as well as bone transplantation, is concerned, can you say from your own knowledge whether Prof. Dr. Handloser, in his capacity as Chief of the Wehrmacht Medical Service and Army Medical Inspector, ordered experiments in contradiction to all recognized medical and scientific methods?"

The answer reads as follows:

"I know Prof. Dr. Handloser in his capacity as Chief of the Wehrmacht Medical Service and Army Medical Inspector. I do not know and have never heard, that he or any of his offices carried out or ordered any experiments in contradiction to recognized medical and scientific methods. According to my knowledge of the character of Prof. Dr. Handloser I cannot imagine that he ordered or even approved of such experiments."

I now request that this affidavit be admitted as Exhibit No. 30, and a further affidavit of the same Professor, in which Dr. Frey deals with the impressions during the lecture by Dr. Gebhardt and Dr. Fischer, and states here:

"In the lectures of Gebhardt and Fischer, which is mentioned in this letter of 27 of January, 1943 is contained a report about the result of

a series of experiments which was carried out simultaneously on human beings. This series was concluded and after the series had been completed a repetition of the series was out of the question. In the lecture in question we discussed people who had been condemned to death and that experiments on concentration camp inmates were carried out against their will was not expressed. So far as I know I personally maintain the point of view that such experiments on healthy people

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with the intention to cause symptoms of diseases on them and to test their therapeutic influence would be prohibited by the ethical rules, and that theory must be disapproved." I want to point out expressly that the next sentence is an objective subsequent opinion by Professor Frey, and he does not state any fact.

MR. McHANEY: This document which has just been read is not in the document book and I must object to it's being offered until I have an opportunity to look at it and see what it is.

THE PRESIDENT: I was going to ask counsel if the document can be found in the document book.

DR. NELTE: It is contained in document book No. 3, which has not become available as yet. The same

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applies to the document HA 43, which I have just offered, and it is an affidavit by Dr. Professor Randeralf and I request that both documents be admitted with the reservation that the documents will later on be presented to you and the Prosecution and that they can then object to them.

MR. McHANEY: The Prosecution has no objection to his reserving an exhibit number in sequence and no particular objection to his now reading the affidavit. However, I would like to have it clearly understood that it is incumbent upon Dr. Nelte to re-offer these documents at a later stage when we have the translations before us, because otherwise the burden is on the Prosecution to keep a check on these documents provisionally admitted and we are going to lose track of them.

THE PRESIDENT: I was going to suggest if counsel has the documents he could offer now in his document book, they should be offered first and these documents reserved until the document is prepared and given to the Prosecution, and the Tribunal. Is counsel advised as to when this Document Book No. 3 will probably be prepared?

DR. NELTE: I was told it would be ready by this morning but I guess it was not completed. In the document book there are only four documents. It contains an additional four documents, and perhaps it would be appropriate to admit them, because otherwise the complex of the question would be impaired.

THE PRESIDENT: Counsel may offer them provisionally if he desires and reserve the number, but it must be read again when the documents are again offered as exhibits.

DR. NELTE: Yes, Your Honor.

Professor Randeralf states at the third working session

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of the consulting specialist physicians from the 24th to the 26th of May, 1943, in connection with the lectures by Fischer and Gebhardt, I have not participated in the discussion, but after hearing the lecture with regard to injuries sustained by bullet wounds, this lecture didn't have anything to do with lectures by Gebhardt and Fischer, who are completely unknown to me.

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My lecture was completely independent from the report by Gebhardt and Fischer. It was supported by experiences which I myself had gained by dissecting the corpses of German soldier who had died in battle, and which were supported by studying world literature. I have not made any remarks in the discussions to Gebhardt and Fischer.

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"I can't remember in detail any more the lectures by Gebhardt and Fischer but as far as I remember it could not be seen by reports from Gebhardt and Fischer that experiments on concentration camp prisoners had been carried out. The consulting specialists physicians have discussed the medical experiences at this conference, in all combats, and in all hospitals at home in order to gain new methods of treating wounded and sick soldiers. As a result of this conference of the consulting physicians the new medical experiences were changed by the Army Medical Inspectorate to directives and through these medical directives it was possible to bring these experiences to the young physicians who were used in the hospitals at the front and were unable to attend these conferences.

DR. NELTE: I request to provisionally admit this document as Exhibit 32.

I now come to the Document Book about the Sea Water Experiments. That is Document Book V and the affidavit by Dr. Becker-Freyseng, NO-448, which is not contained in this Document Book. The exhibit number of the Becker-Freyseng affidavit cannot be determined yet. The exhibit number of NO-449, that is the affidavit by Professor Schroeder, and this will be exhibit 130. This will be exhibit 31. This book I am handing to you does not contain any documents with the exception of Document NO-449 which mentions your name directly. In the affidavit of Professor Schroeder, NO-449, which is exhibit 130 by Professor Becker-Freyseng certain statements are contained which might give cause to the conclusion as if you had been in some way connected with the sea water experiments or in the very least that you had knowledge of them. Will you please make a statement with regard to the assumption

that has been expressed by the two other defendants?

A. In connection with this I can only say that I have heard of the sea water experiments here in Nurnberg. Before they were completely unknown to me.

DR. NELTE: May it please the Tribunal, I therefore request that the affidavit by Professor Schroeder, Document Book II, page 30, document HA-22, be admitted as Exhibit 33. Professor Schroeder states here under paragraph 2 - "Under No. 8 I said that Professor Dr. Handloser knew about the medical research experiments carried out by the Luftwaffe. I have to add the following in that connection:

"a) My testimony refers only to the time of my tour of duty as Chief of the Luftwaffe Medical Service from 1 January 1944 on. About the procedures before that time I am in no position to make any statements.

"b) Luftwaffe research was not subordinated to the Chief of the Wehrmacht Medical Service; it was not among the "common" tasks of the Wehrmacht Medical Service. That is why a report to the Chief of the Wehrmacht Medical Service was not considered.

"c) When the Luftwaffe handed out research assignments about strictly aviation medicine fields, the consent of the Chief of the Wehrmacht Medical Service was not necessary. The Chief of the Luftwaffe Medical Service could on his own responsibility carry out research in his aviation medical research institute without informing the Chief of the Wehrmacht Medical Service.

The information concerning research assignments given to third persons was connected with the assignment given to Professor Dr. Brandt in 1943, to guide the whole research work in order to avoid duplication of work. After that time

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all proposed research assignments had to be reported to the office of the Reich Commissioner, Office for Science and Research. This was done in the following manner: Copies of the letter sent to the man assigned the research job were sent to the Office for Science and Research (Professor Rostock); an additional copy went to the Chief of the Wehrmacht Medical Service for his information. These reports contained no information about place, methods of execution of such research, assignments, nor were any possibly contemplated experiments on human beings mentioned in them.

"d) As far as the sea water experiments (No. 5 of my affidavit of 15 October 1946), it becomes evident from Document No. 177 that no representative of the Chief of the Wehrmacht Medical Service or the Army Medical Inspectorate participated in the preliminary conference on 19 May 1944; it further becomes evident from the distribution list that this record was not submitted to the Chief of the Wehrmacht Medical Service. Nor was a copy of the letter which was sent to the Reichsfuehrer SS Himmler, bearing my signature, forwarded to the Chief of the Wehrmacht Medical Service. No research assignment was issued in this matter."

I request that this document be admitted as exhibit #33. Dr. Becker-Freyseng states in Document HA-23-----

THE PRESIDENT: Before entering upon any further documents the Tribunal will recess until 0930 tomorrow morning.

(The Tribunal adjourned until 13 February 1947 at 0930 hours.)

CORRECTED COPY

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al., defendants, sitting at Nurnberg, Germany, on 13 February 1947, 930, Justice Beals presiding.

THE MARSHAL: Persons in the Court Room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present with the exception of the Defendant Oberhauser who is absent with a continuation of her recent illness.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants save the Defendant Oberhauser, the Defendant Oberhauser being absent on account of illness according to a doctor's certificate which I will hand to the Secretary-General.

(Certificate handed to Secretary).

DR. KURT Kaufmann (For the Defendant Rudolf Brandt): Mr. President, I request permission to make a request before the defense continues to present its case.

THE PRESIDENT: Counsel may proceed.

DR. KAUFMANN: May it please the Tribunal, I want to make a request that the Defendant Rudolf Brandt be permitted to be absent from the courtroom after the recess this morning for such a period of time until it has been determined by a medical examination by the prison physician that he is able to participate in the courtroom sessions. In my opinion Rudolf Brandt is sick and, according to the symptoms which I have the opportunity to observe, he is in my opinion severely ill. He only weighs 50 kilograms and he is barely able to even follow the proceedings. His mental capacity is deteriorating from day to day, so that it becomes

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questionable to me if the defense can even be concluded in a professional manner. I, therefore, request, and I would be grateful, that an examination by the prison physician be ordered so that I will obtain full clarity as to whether the Defendant Rudolf Brandt is still able to attend the courtroom sessions.

THE PRESIDENT: Counsel should make his application in writing so that the matter will become a matter of record. Counsel will prepare an application and hand it to the Tribunal at any time prior to the morning recess. The matter will then be considered.

DR. KAUFMANN: Thank you very much.

DR. NELTE: May it please the Tribunal, at the end of yesterday afternoon's session I had started to read the affidavit of Dr. Becker-Freyseng with regard to the complex of questions regarding sea-water experiments. The affidavit which I presented before of Professor Schroeder, as you will recall, refers to the time of 1 July 1944 until January 1945 when Professor Schroeder became Medical Officer Inspector of the Luftwaffe. Dr. Freyseng previously belonged to the Medical Inspectorate of the Luftwaffe in a position which enabled him, and enables him today, to give a judgment about the relationship between the Chief of the Wehrmacht Medical Service and the Medical Inspectorate of the Luftwaffe. Dr. Becker-Freyseng had given to the prosecution affidavit Number NO 448 which is Exhibit 81 and in this affidavit the following is stated under No. 6:

"Handloser, as Inspector of the Wehrmacht Medical Service, had to be fully acquainted with the research work done by Army, Navy, and Luftwaffe. We had orders to report to these gentlemen on all research assignments of the scientists working for us, so that duplication of work might be avoided."

In connection with this, Dr. Becker-Freyseng has given the following affidavit which I shall offer and present as Document HA 23. It is contained on page 32 of Document Book II. It will have Exhibit No. 34. In his affidavit, Dr. Becker-Freyseng states the following:

"The interpretation which the Prosecution gave this part of my affidavit prompts me, in order to avoid misunderstanding and wrong conclusions, upon request of the Defense Counsel of Professor Handloser, to make the following explanation:

"1. The contents of No. 6 of the affidavit were never the subject of the questioning in the previous interrogations. When the interrogator, in the presence of Mr. McHaney, gave me an English copy of the affidavit to sign, which was supposed to be a summary of the interrogations and which had been formulated by the Prosecution, I told him especially in respect to Nos. 5 and 6, that because of the general formulation of those sections I had to make explanations. Mr. McHaney told me that I could make explanations later. Thereupon I signed. I was not given any opportunity later to explain No. 6 of the affidavit.

"On the question of Professor Dr. Handloser's jurisdiction as Chief of the Wehrmacht Medical Service concerning the research work done by the Luftwaffe, I state:

"a) Research performed by the Luftwaffe was not subordinate to the Chief of the Wehrmacht Medical Service; it was not among the "joint" tasks of the Wehrmacht Medical Service. Therefore no report was made to the Chief of the Wehrmacht Medical Service.

"b) No. 6 deals only with the period after the Office for Science and Research had been established under Professor Karl Brandt. At this period we must distinguish between the research done in the Luftwaffe's own institutes. Only concerning the latter report was made to Professor Rostock, consisting of sending a copy of the research assignments to Professor Rostock and to the Chief of the Wehrmacht Medical Service. This research assignment, however, did not contain any information about the methods to be applied.

"c) The sea water experiments were not the result of a research assignment. Therefore the Chief of the Wehrmacht Medical Service did not receive any copy.

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"2. The words:

'Handloser, as Inspector of the Wehrmacht Medical Service,
had to be fully acquainted with the research work done by
Army, Navy, and Luftwaffe,'

in this general form are incorrect. They refer to the following sentence
and are meant to express what I have said above under No. 1.

"3. Moreover when I spoke of Handloser, I did not mean Prof.Dr. Handloser personally but his office, which, accordingly to the contents of the copies of research assignments sent it from the end of 1943 on, would hardly have any reason to submit such things to the Chief of the Wehrmacht Medical Service himself, but only to the section chief in charge."

I request to admit this affidavit as Exhibit 34.

SIEGFRIED HANDLOSER - (Resumed)

DIRECT EXAMINATION - (Cont'd.)

BY DR. NELTE:

Q May it please the Tribunal, I have only a brief question with regard to the bone and muscle regeneration and the transplantations. The Document Book does not mention the name of Handloser and his office so that I want only to ask if he knows anything about the experiments which were carried out at the Ravensbrueck Concentration Camp, or if he received any reports about them?

A No.

Q On the occasion of the conference of the Consulting Physicians did you hear any lecture on this subject?

A No. This subject was not discussed at any conference.

Q The question of the experiments within the framework of hepatitis research must be considered as concluded by the interrogation of Prof. Dr. Gutzeit and your testimony, as far as it might contribute to the general clarification in this case. May it please the Tribunal, in this connection I only want to refer to Document NO-371. This is again an affidavit of the Defendant Rudolf Brandt, which states the following:

"Handloser and Schroeder also must have informed about the fact that Haagen and Dehnen were physicians in the Army Medical Service and the Robert Koch Institute."

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This affidavit is Exhibit 186 of the Prosecution. In connection with this I submit an affidavit by the Defendant Rudolf Brandt, Document HA-11. It is on page 17 of Document Book No. 2, and Brandt states the following:

"In my affidavit of 14 October 1946 I mentioned a Dr. Dohman and described him as 'A doctor of the Army Medical Service and of the Robert Koch Institute.'

"In this connection I declare that I, myself, did not use this formulation but that it was suggested to me by the Prosecution. I did not know Dr. Dohnen personally and I do not recollect having known where he worked, what his functions were, and to whom he was subordinated.

"If I said in this affidavit: 'Handloser must have been informed about that,' it was a mere assumption. I cannot cite any facts which prove or suggest that Prof. Dr. Handloser knew of such things."

I request that this affidavit be admitted as Exhibit 35.

I now come to a point of the indictment which was not contained in the original indictment. Within its presentation the Prosecution has presented Document Book 11 about the Polygal Experiments. In this Document Book the name of the Defendant Handloser or one of his offices is not mentioned either. However, in the course of his presentation the prosecutor has claimed that the Defendant Handloser was connected with the peotin research. In the session of 2 January 1947, the prosecutor stated the following with reference to Sievers' Diary, "The Ahnenerbe." That was Document No. 3546-FS and I quote:

"2 SS Hauptsturmfuehrer Dr. Floetner."

In connection with this, according to the record, the Prosecution made the following remark, and I quote: "The Research Institute was subordinated to the Defendant Handloser" -- to which fact he had already referred previously in the course of the trial. I am now asking you, was an institute with the name of Institute for German Eastern Research at Krakow -- was this institute subordinated to you?

A. It was never subordinated to me.

Q. Do you know this institute?

A. No.

Q. Since the Prosecution apparently wanted to prove a connection of Prof. Handloser here with the Ahnenerbe Institute, a part of the SS, I have asked the Defendant Sievers to determine here if, and in what place in this Diary the name of the Defendant Handloser appears and if he had

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any contact with the Ahnenerbe and with this Institute for Eastern
Research. I am now offering Document HA-15 on page 25 of Document
Book No. 2. I request that

it be admitted as Exhibit 36. Dr. Wilfrid Sievers states the following:

"The Prosecution submitted my diary 'Mahnenerbe' (Document 3546-18) in evidence.

"Concerning the co-defendant Prof. Dr. Handloser, I state categorically that there was no connection or collaboration between him and me, or the offices to which I belonged, either officially or privately; I did not know Prof. Handloser personally prior to this trial.

"Since the name Prof. Dr. Handloser appears in two different places in my diary, I consider it my duty to state that no connection or collaboration with Prof. Dr. Handloser resulted in either case.

"1) Entry: 2 February 1944:

Conference with Professor Hirt in Strasbourg:

Influenza vaccination by Prof. Haagen. Influenza vaccination, successfully carried out in municipal hospital by Prof. Haagen was rejected by Prof. Handloser for use in the Wehrmacht. Report requested for submission to the Reichsfuehrer SS.

Notation by Dr. Sievers:

Prof. Hirt told me this with the remark that he considered this matter very significant and, contrary to Prof. Handloser, he was of the opinion that this vaccination should be introduced at least in the SS. That is why he asked for a report from Prof. Haagen for the purpose of submission to the Reichsfuehrer SS.

"2) Entry: 3 February 1944.

Conference in Strasbourg with Prof. Meier, Wehrmacht biologist; our support of their institute requested. Meier recommended, therefore letter to Commissioner General Prof. Dr. Brant through me. Meier is to be informed that similar letter is to be sent to Prof. Handloser.

Notation by Dr. Sievers:

Prof. Meier, head of the Reich League for Biology and Chief of the Department of Biology in the 'Mahnenerbe'. He mentioned especially in regard to questions concerning replacements, that he was very much interested in prominent biologists which were discussed at that time. As responsible leader

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of the biologists he should like to get in touch with men who show understanding and are likely to help his plans. He considered especially suited the aforementioned names and was of the opinion that it might be advantageous.

if at the time Professor Meyer, the head of the Department of Biology in the Reich Research Council, should also approach them. It was decided that he address a letter to Professor Brandt through me in order to enable us that the like letter by Professor Meyer may be added.

"Professor Handloser was so completely unknown to me that I was unable to give any information about him; that is the reason why Professor Weber asked me to inquire at Professor Meyer. As far as I remember, no such letter, however, was ever written.

"On 2 January the prosecution cited, when reading the document book about hemostat "Polygal", from my diary (Ahnenerbe) one quotation of the 26th and 31st May 1944, regarding a conference with Dr. Grauer of the Reich Research Council and with Dr. Floetner:

"Positive research at the institute for German East
Research in Cracow.

"The Prosecutor described this quotation as very interesting, because this Institute was under the defendant Handloser. This entry therefore proves that he was familiar with the 'Polygal' matter.

"The institute for German East Research in Cracow was connected with the Reich Research Council and with Professor Thaisen, the Chief of the Department for Inorganic Chemistry and Electrochemistry of the Reich Research Council. Its manager and, at the same time, Thiessen's and the Reich Research Council's deputy, was Dr. Pietsch,

"Professor Handloser definitely had nothing to do with this Institute, nor did I ever hear his name in connection with it. This Institute was not under the OKW either.

"It is quite apparent that this is one of the many confusions or constructed artefacts of the prosecution trying to establish a connection of people and facts where actually none existed."

I now request that the affidavit be admitted as Exhibit No. 36.

And, finally, the prosecution in excess of the indictment has offered Documents No. 1308 and No. 1309 about the question of bacteriological warfare

These documents are not contained in any document books and I shall in a few minutes give you the exhibit numbers. These documents also do not mention Dr. Handloser's name, however, a medical officer is mentioned here as Stabsarzt Dr. Klieve, who had several functions and among other things he had the work of the Army Medical Inspectorate with the Military Medical Academy with the Weapons and Ammunition Office No. 9. The documents are Prosecution Exhibits No. 325 and No. 326. In connection with this I should like to ask you the following question; who was or who is Professor Klieve?

A. When in January, 1941 I stated in my office as Army Medical Inspector I met among the medical officers of the Army Inspectorate, Prof. Dr. Klieve. He was personally known to me from the year 1922 when I was studying at the Military Medical Clinic at Giessen when I was assigned there as Stabsarzt. At that time, he was a medical practitioner at the same clinic to which I belonged. Since the year of 1922 I did not see him again until the year 1941. At the outbreak of the war, he had been called into the Army Medical Inspectorate by my predecessor, Dr. Waldmann and there he was to deal with the medical aspects of bacteriological warfare.

Q. To whom was Professor Klieve subordinate?

A. In his medical activities and as medical officer, he was subordinate to me as the Army Medical Inspector and in his activities as medical consultant and advisor and specialist, he was subordinate to the Ammunition Office to the Department WauPruf 9 where he also received assignments.

Q. Was the head of this office in the Wau Pruf, Colonel Hirsch?

A. Yes.

Q. What were the assignments which Professor Klieve had to carry out in this position?

A. First of all, Professor Klieve had all the publications and Professional literature of the foreign countries and he had to evaluate

then and use them in order to find out, as far as this was at all possible, what work as being done in this field by the foreign powers and what point of view they maintained in each case, what intentions and conclusions could be drawn from it and what preventive measures could be taken against such potential measures.

In this case, it was a question of protecting the people against some potential bacteriological warfare.

Q What was the status of this work in 1941 when you entered your office as Army Medical Inspector?

A As far as I can remember, this work was in a very early stage and they had to work on a new basis, which had been discovered in France in the course of the French campaign and which furthermore gave us a good insight into the work which was done by the foreign countries in this field; for example also in the United States.

Q Did you officially participate in this work?

A As Army Medical Inspector, I had neither a decisive position nor a decisive influence and I was informed by Professor Klieve about the progress of the work only insofar that I received reports at very large intervals of time and without these reports dealing with any details. Through the Department Wa Pruf 9 and with Colonel Hirsch I did not have any contact and I have never belonged to any working group at any time. I did not belong to the working group Blaitzableiter, which has repeatedly been mentioned here.

Q Now, without any doubt, the question of bacteriological warfare and preventive measures must have at one time been discussed within your field of competence and you, as Army Medical Inspector and Chief of the Army Medical Service, must have at one time or another have voiced your personal viewpoint in this question; will you please tell us your personal opinion?

A As to the intention to engage in an active bacteriological warfare on the part of the German Wehrmacht, no information has ever been available to me, either officially or through other channels, however, since throughout the war it could be seen from the literature of foreign countries that this question played a part in all countries and that on some occasions considerable work was being done in this field, it of course was my natural duty to occupy myself with all possible measures in order to prevent this warfare from being carried out.

There were preventive measures and they were primarily for the Wehrmacht

itself and secondarily, they were also intended for the civilian population. Furthermore, Professor Klieve throughout the war was informed of the fact that I personally, with regard to the question of bacteriological warfare, maintained a completely negative point of view. In order to use some banal word which I have expressed on the subject, I would like to mention here that I have always said to my collaborators that in my opinion bacteriological warfare for the next few years in any case would be a still-born child. I have also emphasized that I did not want to obstruct Dr. Klieve's zealotry in his work, because the work and counter measures were urgently necessary and I believe that he understood me quite correctly.

Q. Do you know the opinions of the chiefs of the German leadership with regard to bacteriological warfare?

A. I know that the Fuehrer repeatedly did not only express, but that he also ordered, that active bacteriological warfare would be completely out of question for the German Wehrmacht. On one occasion it was also stated that the Fuehrer had made a statement to the effect that the preventive work should only be carried out to a very limited extent because he did not approve of the whole matter.

Q. And what was the point of view of Keitel, Brauchitsch and Halder?

A. Field Marshal Keitel and my superior, Brauchitsch and with the chief of the General Staff Halder, this question was never discussed. However, I can recall that the Quartermaster General, General Wagner, discussed the subject with me on one occasion and he asked me if this was a matter which would cause us a lot of worry in the circumstances and then I informed him to the effect that in the literature, this work was constantly being mentioned; that I, on the other hand, maintained the personal point of view that we need not worry about it, and when he asked me why not, I replied from the medical point of view the danger was so great for everybody who might engage in this type of warfare for his own territory and for his own troops, I always had the impression that our Military leaders were not in favor of this entire type of a bacteriological warfare as a weapon, and that they did not have a very favorable attitude on the subject.

I can also remember that on one occasion I went with Klieve to the new chief of the General Staff, Zeisler, who was to be informed about everything and what we were working on; that we reported to him and that Zeisler showed very little interest, and he showed so little interest that I actually felt sorry for Klieve on that occasion.

Q. Did you know that Prof. Blome received an assignment in that field?

A. I must state the following in that connection; In June or July of 1943 I, in my capacity as chief of the Wehrmacht Medical Service, received a letter with the letterhead Reich Research Council, Commissioner of Plenipotentiary for Cancer Research. There I was invited to attend a conference

in Berlin at a certain date. I then went to Berlin, accordingly, coming from the Fuehrer's headquarters, and since we were to discuss cancer research I had also brought along my consulting surgeon, Rostock.

The conference took place in Blome's office, and besides him the following persons were present, Ministerial Dirigent Schumann, the Veterinary General Richter and one or two more men, but I cannot remember the exact number anymore.

Dr. Blome opened the conference with a statement that the discussion was to be about bacteriological warfare and that he had received an assignment by Reich Marshal Goering to carry out preventive work and to put it on a broader basis. He also stated that by virtue of this order he was now asking us, and the order may also have stated that he was to actively include himself, but I do not remember that exactly anymore--therefore, he was asking us to give him some brief reports about the status of the defense work and also about the basis and reports which we had received about the work which was being done abroad.

I was the first one to take the stand, and then I stated that first of all this did not fall within my field of competence, and secondly, I did not have the authority to discuss such work which had been done in the military field and to give any information about the subject without first having received the permission from my superior, Field Marshal Keitel. I also asked him if perhaps he had received a letter stating that Keitel approved of my making a statement on the subject. However, since this was not the case I once more declared myself unable to give him any information whatsoever. The other members of the Wehrmacht, Field Marshal General Richter and Ministerial Dirigent Schumann also agreed with my opinion.

Blome then said that of course he could quite understand our point of view and that now he would have to make a return journey, which would of course take some time. This was regrettable because he also had been informed to the effect that at certain places abroad an increase in the work which was being done in this field could be determined.

I can also remember that he made the statement that he actually intended to also include the German press in order to point out to the masses the large danger which might arise in the circumstances. Then, as the only statement which I made during that conference, I stated to Blome that in my opinion I had to warn him of carrying out that intention at this time and even at a later period of time, because now, in the year 1943, as a result of the air attacks and as a result of the fear of phosphorus which really played a major part with the people, and as a result of the incidents during the first half year in 1943 where already there was some unrest which could be felt in the people, that they should be protected from these new fears under all circumstances. Furthermore, the whole problem was not suitable for discussion in the daily press. Blome acknowledged that and then he broke off the conference.

Q. Now, what did you do on your part with regard to your military superiors?

A. From my office I immediately established contact by telephone with Field Marshal Keitel, and I briefly reported the course of the conference to him, and I reported to him what I had told Blome. Then he briefly said over the telephone, "I agree with you, but since the Reich Marshal is included, send me a written report about this immediately so that I will have that in hand." I did that. When, after some time, about eight or ten days may have passed, I told him once more that in my opinion there was no urgent necessity at all and that it was not appropriate to follow this new procedure. I had the impression that he agreed with me. However, a short time afterwards I received an order which read approximately as follows:

The Reich Marshal has decided in the matter of bacteriological warfare that the representatives of the Wehrmacht which attended the conference in June, are to give the necessary information to Dr. Blome who is acting on my orders.

I sent this letter to the Army Medical Inspectorate for compliance with Keitel's order, and with that the whole incident was completed for me.

At large intervals then I found out from Klieve that aside from the conferences which took place at Amt Office 9 and which took place at very large intervals, that nothing of particular importance had happened there.

Q. Have you spoken with Dr. Blome once more afterwards, or have you corresponded with him on this matter?

A. I have not corresponded with Blome on this matter nor did I have any discussion with him after June. I saw him again once more. That was after January 1945, or it may have been February 1945. I saw him in Belitz in connection with another matter, and I only know that we briefly touched on the subject. I think briefly it was touched on by both of us, Blome as well as myself, that now with the present state of affairs, the fear of bacteriological warfare which might be applied by the enemy was now finally over.

Q. In the trial before the International Military Tribunal, the frequently-mentioned Generalarzt Schreiber was also mentioned in connection with this subject. Will you tell us what was Schreiber's attitude, in your opinion, with regard to bacteriological warfare?

A. His attitude was also a negative one.

Q. He has also expressed that here on the witness stand and, further, that you had supported him in that respect. The question of bacteriological warfare is important for our case also because in the cross examination of Dr. Karl Brandt, the Prosecutor asked the question, "Do you know of an order by Keitel that no experiments should be carried out on human beings?"

A. I have never discussed this question with Keitel.

Q. The question is still symptomatic because the Prosecution is trying to express the fact that knowledge existed that experiments were being carried out on human beings in that connection.

I am now asking you have you ever discussed the problem of experiments on human beings with your superior in this connection or in any other connection?

A. No.

Q. I am now coming to another chapter, namely, that of the influence of the National Socialist ideology. General Taylor in his big opening speech has stated that the crimes in this case had their origin

in the National Socialist ideology. In a part of the statements which is not unimportant, he deals with the direct effects of National Socialism on medicine. That is on page 96 of the record. Since the National Socialist ideology here is in a certain sense described as responsible for certain things which have been presented here-- I must assume in connection with the statements by General Taylor--I must ask you now the following question: were you a member of the NSDAP?

A. No.

Q. Were you a member of the SS?

A. No.

Q. Did you belong to the Reich League of Physicians?

A. No.

Q. Did you belong to any other organization of the Party?

A. No.

Q. What was your attitude toward the Party, towards the ideology and the effects of National Socialism?

A. As I have already stated, I was from 1904 until the end of the war constantly on active military duty, and like most men of my age on the basis of the experiences which I had collected during a long period of time, I had always maintained the point of view that the professional soldier -- and that also include the medical officers -- should be kept out of Party politics and politics altogether. Accordingly, I have never occupied myself with Party politics through out the time in excess of what a well-educated human being must know about the happenings in the world and also about politics.

As is also shown by the history of my life, through the many offices and through the necessity of establishing new agencies, I have had so much work that I did not even have any time, or that I did not even feel like occupying myself with politics. Whenever I had time, I used it in order to continue my studies of literature, and if any spare time remained, I occupied myself with my favorite hobby, namely

music. I played also and availed myself of all opportunities to attend an opera or a concert, and in this way I kept completely out of Party politics.

Q. Have you ever had any contact with Hitler?

A. After I had become a medical inspector in January 1941, I had to report to the Fuehrer in March. After this period of time, I have only had a direct contact with him once more. That was in August or September of 1944. I had to report to him together with Professor Brandt, and there we discussed the organizational question of the health leadership. Otherwise I did not have any direct contact with him.

Q. In December, 1941, Hitler became Supreme Commander of the Army and you are alleged to have frequently been received by Brauchitsch and reported to him. How was it that Hitler became Supreme Commander of the Army?

A. This connection was, unfortunately, to our greatest regret completely interrupted. I can only say that we of the Army from the very moment of the dismissal of Field Marshal Brauchitsch in a practical sense did not have a Commander-in-Chief at all anymore, while, for example, the Luftwaffe was represented by Goering, the Navy by Raeder and Doenitz, the SS by Himmler, and all of these branches had very powerful representatives in those men.

In the case of the Army the office of the Commander-in-Chief had been torn into several pieces and now various leaders had obtained control over the different pieces. While I reported in detail to Brauchitsch at least once in two weeks and I could take all my suggestions and fears to him -- I know personally that he quite openly cared for his sick and injured soldiers and was very much interested in the Medical Service -- such immediate possibility of exercising any influence ended for me as Army Medical Inspector, and all my influence ended toward the end of 1941. From that time on, I had to turn over my suggestion to the Quartermaster General, and

I do not know in what form or to what extent he brought those matters to the knowledge of the Fuehrer.

Q. On the occasion of the conversation which you had with Hitler, did you discuss research questions?

A. No.

Q. What was your contact and what was your relationship?

A. I visited the Reichsfuehrer-SS on one occasion at the time he was already Commander-in-Chief of the reserve army. That was in August 1944. I visited him at his headquarters in order to read to a discussion where the distribution of physicians was discussed. The question was discussed how replacements could be procured for the army units. Otherwise, I did not have any other contacts with Himmler.

Q. Officially, and personally?

A. I did not have any personal contacts with him at all.

Q What contacts did you have with Goering?

A In the winter of 1943 I reported to Goering together with the Medical Chief of the Luftwaffe and the Navy, at his Headquarters in the Remington Hotel, where in the end, we also discussed the question that the medical officers would have to be equally distributed; that coordination with regard to the time factor should be made between the front and the homeland. At that time, he stated that he had heard that women medical officers were still at the front when they should be at home, and similar matter. That was the only discussion which I had with Reichsmarschall Goering.

Q I now want to refer once more to Himmler. Did you ever attend a lecture by Himmler?

A Yes, I attended it in the year 1943. The Commander in Chief of the Reserve Army, his name was Brann, together with the Army Corps Area Commanders, had been ordered to attend a series of lectures at Bad Schachen on Lake Constance. I was also ordered to attend as Army Medical Inspector. I only want to say this in order to have the record complete.

Q What relationship did you have with Bormann?

A None, whatsoever.

Q Well, Bormann, in a certain way is a representative of the Party. Did the Party agencies attempt to gain influence and to intervene in the medical field in the sense of drawing it away from the medical profession's rules, as they used to be applied?

A It was not the withdrawal of the medical rules but it was quite a clear procedure that the Party expressed its opinion that our medical replacements received too little or no political training which was given to all other students. In connection with this, I must state that we of the Wehrmacht had organized the students in the so-called student companies; they were soldiers who had been at the front a year and a half, and who had distinguished themselves there; they received permission to continue their studies but they remained soldiers, and we had organized them into the so-called student companies, whose leader was a medical officer and a university lecturer. We also billeted them together in a block of barracks in some community. Until 1944, they included approximately 15,000 medical students.

of course, the Army, the Party, raised objections against this procedure and it caused the Reich Student Leader to carry out the military sessions of these students and to place them into civilian hands. The reason he gave was that the word philosophical political education of these men was very important, and who would later on become physicians, and would get in contact with the other people, should be completely discharged from the service in the Wehrmacht. With a lot of effort and difficulties, I succeeded until the end of the war to counteract all these attacks. And, I would like to mention at this place that perhaps I would not have succeeded alone if I had not also, through Professor Brandt, whenever the danger was very great, I had been supported by Professor Brandt, and he reported to the Fuehrer whenever the danger was very great. That was one way of exercising our influence in the medical service.

Q. May I interrupt you a minute. General Taylor, in his big opening speech has also discussed medical training under the Nazi system, on page 101, and he has stated that the spirit had been spoiled. You just mentioned the struggle against this influence on the universities where it was not only the active Military Medical Corps, but all through the students who were to become reserve medical officers. In this connection, I would like to know how the case stood with the active Military Corps which was given special training; if they were under the influence of national socialism, and as General Taylor stated, that the spirit of the students was pressed down to a very low level. He said that the level had sunk in a terrible manner. Can you tell me anything about the directives and with the spirit with which you wanted to fill the student Medical Corps?

A. Until the very last moment, in accordance with our tradition of one hundred and fifty years, we educated our youth, and we have not differed from those old principles one iota.

Q. Can you give us any proof of that fact? I am thinking of the words which you addressed to these people on special occasions, at the time of their graduation.

A Yes, I can give you an example. When our active replacements, when in their entirety, passed through our Military Medical Academy, when after they had distinguished themselves at the front where they had been engaged in combat operations, then either the Commanding Officer of the Academy or whenever I was in Berlin, I personally swore them in. And, they also received a certificate at that time which contained a certain motto according to what you wanted to have them educated, and this motto was maintained until the end of the war, and as long as candidates for medical officers were being trained. The oath of Hippocrates states: "Devout your life to the medical science and concentrate all your work in gaining practical experience in medicine. Remember the practical word: Wherever love to human beings exist there you will also find love to the medical profession. Humanity and the medical profession cannot be separated from each other. Work constantly in order to become a physician and with a firm character and with love to human beings. Never see anything else in a patient than a suffering fellow human being whom you have to help. Try to understand the simple soldier in such a way as if you had grown up together with him because all of us are connected with the same fate."

Q Will you now continue the the description of all the concepts and all the influences which was being exercised by the Party?

THE PRESIDENT: Before the Witness proceeds with the case of this examination, the Court will be in recess. If Doctor Kauffmann can bring up the application for the excusing of the defendant Rudolf Brandt I can see him during the recess if the Secretary General will refer him to me.

(A recess was taken)

MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Tribunal has received the application of Rudolf Brandt through his counsel to be excused from the session. The Tribunal will consider that matter in its order during the noon recess. Counsel may proceed.

BY DR. NELTE:

Q. Professor, I put my last question to whether any further interferences took place from the party, or rather the party agencies, and I am referring to interference in your sphere of activity?

A. In this connection I should merely like to mention that an attempt was made to interfere with the use of Catholic nurses in our hospital. Repeatedly, it was demanded that these nurses be dismissed, and they be substituted by nurses from the Red Cross or the National Socialist nursing association. Up until the end of the war I succeeded in preventing that procedure. These people were excellent in performing their work, and I was sure any substitute would have been a change for the worse. Apart from that, these nurses from the start had been so devoted to their duties and behaved in such an exemplary manner toward our patients that it would have constituted a great injustice to dismiss them. And in this connection too, I should like to emphasize that I on my own initiative probably would not have succeeded in doing that if it wasn't in this case too that I had the help of Professor Karl Brandt against these interferences of the party. He used all of his influence in seeing that these nurses remained in our hospitals and thereby defended us against the attacks of the party.

Q. When submitting documents, I shall submit a few affidavits in that connection.

Now, did you ever attend any large scale party meetings, for instance, the Nurnberg Party Rally?

A. No, at no time at all.

Q. With whom of the co-defendants had you no connection whatsoever, that is to say, as far as there was any official connection. We have already mentioned them and shall repeat them again, but I now want to find out with whom of these defendants you had no contact whatsoever, privately or officially?

A. Until my arrival in Nurnberg I had no contact of any official or

personal nature with the following twelve gentlemen: Woltz, Ruff, Becker-Freysing, Rudolf Brandt, Hoven, Pokorny, Sievers, Oberhauser, Poppendick, Schaefer, Brack, and Ramberg.

Q. During the statements made by the Chief Counsel he mentioned on page 96 of the transcript and speaks about the participation of the German physicians in the excesses of April, 1933, and he speaks about the combating of the old physicians' association. The corps of the medical officers, as I said before was not mentioned in any of those statements. The military physicians on the other hand must be considered a part of the German physicians who were active in military service and you are the representative, that is, as Army Medical Inspector, for the army physicians, and later as Chief of the Wehrmacht Medical Service you are the representative for all physicians in the armed forces. In your capacity as representative I should like to ask you: Whether the military physicians individually or in their entirety participated in any way in the excesses which took place on the 1st of April, 1933, or whether they participated in any way in the combating of the old physicians organizations.

A. I know of no case and no case was ever mentioned either before the War nor during the entire War.

Q. That is to say, the Medical Officers Corps had nothing to do with these political instances?

A. No.

Q. General Taylor, in his opening speech, on page 98, speaks about, and I quote: "The Prostitution of German Medicine under National Socialism". And, in this connection, he mentioned the principles of medicine to national - socialist population policy.

And on page 99, I quote: "The entire public health policy of the Third Reich was put in line with this pronouncement of principles".

And on page 100, I quote: "All German physicians were reorganized through an organization derived from the Reich Physicians Chamber." Although military physicians were not mentioned in particular here I must ask you, since the assertion was made that all physicians were included, were medical officers of the Wehrmacht included and had obligations to abide by them?

A. No.

Q. During the examination and reading of affidavits there was much talk about the organization, its purpose, and meaning of the meetings of the consulting physicians and I shall resist from putting any further questions to you about the preparation, conduct, and results of these meetings. Since, however, this court is connected with the question of conspiracy I should like to give you an opportunity to define your position with reference to the importance of these meetings.

A. In summarizing, I can state the following in that connection: These meetings originated from a mere necessity. They were ordered to take place publicly. On every occasion I made application to my military superior and tried to explain the necessity for these meetings. On that occasion I gave a survey of what I considered to be most urgent problems. Then the military superior decided whether such a meeting can take place or not, because that was something that depended on military situation and the intention of military leadership. The agenda was laid down and a discussion started where these problems were discussed. The results of these meetings were compiled in

directives for the benefit of physicians in general, something that was publicly distributed among all physicians. As soon as there was a possibility these printed reports were sent out to various agencies and medical officers, - sent out to all physicians in order that they may serve as a basis for principal measures and for the information from older physicians to younger physicians. I am convinced that every physician, and every non-physician, who has an opportunity and takes an opportunity to try to get insight into these meeting reports, will too be completely convinced that therein the serious work in the scientific field of all the German physicians is laid down, opinions that were represented by leading authorities from all territories of Germany. I refer you to my speeches which I made on these occasions and which always constituted a review of the past year, and at the same time a survey of the work to be done during the period to come. And, I stand up to every one of the words which were pronounced on these occasions. The Prosecution submitted one of these speeches as a document. In spite of greatest efforts I, not even up to now, could have found anything in that speech which in any way justifies the severe charge that these meetings were expression and a typical example of a conspiracy of German physicians in order to commit war crimes and crimes against humanity. In conclusion I should like to say that I hope that here at this place these meeting reports will become a document and a mark stone for the serious, dutiful, and almost superhuman work which the German soldiers performed during this long and severe war. And, as the words of Hippocrates were mentioned here repeatedly I should like to emphasize that the German physicians not only were fully aware of these, namely the words "Primum non nocere", but at all times they endeavored to help and to cure whenever they could. And there is nothing further I have to say.

DR. NELTE: Mr. President, that brings me to the end of my examination of the defendant and in substantiation of the words which the defendant pronounced at the end I should like to present affidavit HA-2 which deals with the necessity and purpose of the consulting physicians. You will find that on page 5 of Document Book I and it will become Exhibit 37. I further submit to you a chart of the meeting of consulting physicians on the 17th of May 1944 which took place at Hohenlychen. This will become document HA-2-A,

exhibit 38 and it can be found in the annex of Document Book 1. The chart is to show the Tribunal the extent of the work that was done within these two days and the kind of lectures that were given. Further more, that for the leaders of this meeting and the individual participants it was impossible to listen to a part of these lectures - that all had to confine themselves to their own field. In conclusion I refer to the already submitted affidavit of Gen Arzt Penner, HA-6 which will become Exhibit 26 and the affidavit of Prof. Randerath HA-43, exhibit 32. I finally submit as HA-1, and exhibit 40, an excerpt from the judgment of the International Military Tribunal, regarding the question of conspiracy and criminal organizations. This is not an evidential document. I merely ask you to take notice of it.

JUDGE SEHRING: Dr. Nolte, have you identified HA-32 by any exhibit number?

DR. NOLTE: HA-32?

JUDGE SEHRING: Yes.

DR. NOLTE: I believe HA-32 was not yet submitted. This is in Document Book No. 2. Document HA-32 is an affidavit of the Benedictine Abbey, Maria Laach, Koblenz. It was not yet submitted.

THE PRESIDENT: Will you please give me once more the numbers of these exhibits? You proceeded a little too fast for me to note them as you gave them, beginning with Exhibit HA-2?

DR. NOLTE: HA-2 is in Document Book No. 1, page 5. It is offered as Exhibit 37. Document HA-2a, in Document Book No. 1, can be found in the Annex. It is offered as Exhibit 38. I now offer as Exhibit 39 an affidavit of Generalrst Juodecke, who speaks about the importance of the meetings of the consulting physicians. This Document HA-51 can be found in Document Book No. 3 and is therefore not available to the Tribunal. As I said this morning Document Book No. 3 is available in the German text but a translation has not yet been completed. Therefore this document is being submitted with the reservation that it will later be supplemented by its English translation. I ask you to accept it as Exhibit 39. Then the Document HA-1, Document Book No. 1, page 1, as Exhibit 40. These are excerpts from the judgment of the International Military Tribunal dated 30 September and 1 October 1946.

THE PRESIDENT: Counsel, it is not necessary to offer that as an exhibit. The Tribunal will take judicial notice of it if you call attention to it in your Document Book. It need not have an exhibit number to be introduced as an exhibit.

DR. NOLTE: It will have no exhibit number. The Tribunal will remember that they asked the Prosecution to put the printed reports of the meetings of the consulting physicians at my disposal. The Prosecution did that very kindly. In accordance with the suggestions of the Tribunal I asked to read, copy, and translate some parts of these printed reports. The translations of the copies of these reports have not yet been made and I

should like to be able to submit those excerpts as evidence as soon as they come back to me. It may be possible to do that when I present my short documentary evidence.

Finally, I should like to ask the High Tribunal to help me in the matter of my witnesses, Schmidt-Brucken and Hartleben. Although the Marshal told me a few days ago, and gave me a letter from which it would appear that those witnesses were here, I have not yet had an opportunity to speak to those witnesses. I was told that they are not here at all. After the conclusion of cross-examination I should like to hear those two witnesses in the courtroom and I should like to ask the Tribunal to find out on their part where those witnesses are.

THE PRESIDENT: Will the Secretary General endeavor to ascertain the whereabouts of the two witnesses mentioned by counsel for the Defendant Handloser during the noon recess?

DR. HELKE: Thank you very much. And that brings me to the end of my examination of the Defendant Handloser.

JUDGE SEERING: Dr. Helke, on February 12 some reference was made to a Dr. Haas of Laval. The Tribunal put a question to the defendant concerning the identity and official status of the doctor, to which some general answer was given by the defendant to the effect that the defendant thought that Haas was a civilian connected with some sort of civilian research institute. I believe that at that time you stated to the Tribunal that before you concluded your case you would be able to give us further information, either through a witness or by affidavits, of the exact and precise nature, and it will be your purpose some time before you close your case to do that, I suppose?

DR. HELKE: Yes.

JUDGE SEERING: During the course of the examination of this defendant the defendant has referred several times to the fact that in certain matters involving certain decisions, the defendant Karl Brandt successfully interceded for him and I am now directing this question to the witness: With whom did Karl Brandt intercede?

DR. NEUTE: I don't believe the translation was quite correct. The translation was given as "raised objection". I think that the Judge wanted.

to know at what agency Prof. Brandt supported you?

THE WITNESS: Yes. That could only have been done at any agency which had any influence. I suppose that in Party affairs it would have been Bornemann except for the Fuehrer as far as I can judge it, and if we were concerned with military affairs I think he would have intervened with the Fuehrer and spoken to him.*

JUDGE SEHRING: Something was said about Dr. Handloser being urged, even commanded, to rid his organization of catholic nurses and to supplant them with nurses taken from the SS organization, and that Karl Brandt supported him in his view to retain the catholic nurses. With whom did Karl Brandt intercede in your support?

THE WITNESS: I may say that "SS Sisters" is not correct. It is "NS—National Socialist Sisters." It was a National Socialist Nursing Association which has really nothing to do with SS. I cannot say in this special case in what manner Brandt could give me support. During another examination I think a document was submitted where somebody confirmed that Brandt tried to intervene in favor of the catholic sisters. How he really did that, Prof. Brandt would have to state himself. I cannot give you any details about it. I only know its effects.

JUDGE SEHRING: What did you understand was the sphere of Dr. Karl Brandt's authority or influence, either in military medical matters or in Party medical matters?

THE WITNESS: We were then not concerned with any authority but it was rather a situation where Prof. Brandt had the possibility which he used to mention such anxieties and worries to the Fuehrer by way of conversation, in order to counter-balance to a certain extent the things which were tried from another side. We were not then concerned with any authority but, as I said before, it was a possibility to bring those matters to the attention of the Fuehrer and inform him about those things from our point of view.

JUDGE SEHRING: Will you state again who had a conflicting point of view with that of yours in regard to those matters—what persons or agencies either in the government or in the party?

A. This came to my knowledge through a liaison man between the Party Chancellory and the OKW. He was present at that time during discussions regarding these student companies and was with the OKW from whom he received these directives and whom he had to influence him, but he was the liaison man between the Party Chancellory and the OKW.

THE PRESIDENT: Has counsel for the Defendant Handloser any further questions?

DR. NELTE: No, thank you, not at the moment.

THE PRESIDENT: Defense counsel may now cross-examine Defendant Handloser as a witness. Are there any questions on behalf of any defense counsel?

BY DR. FRITZ FLEPPING: (Defense counsel for Defendant Doachim Krugowsky.)

Q. As the highest ranking representative of the Wehrmacht here, I should like to ask you what influence does any military assignment in military life have and what responsibility. However, at first I should like to ask you what the responsibility as regarding the superior and subordinate should mean? Is the following correct; the superior in personal and organizational matters and also in technical matters has the right to issue orders to the subordinate; is that correct?

A. I should like to refer you to the fact that I mentioned before that we have to differentiate between the military and technical superiors.

Q. What kind of superiors are you speaking of when you say technical superiors?

A. With regard to the technical superiors, there were two possibilities; either he was superior in every respect, as I read to you before, where he at the same time is the troop commander and at that time he becomes the superior in all matters. On the other hand, he may only be a technical superior and in that case he is only a superior in matters that refer to medical matters.

Q. Now, if any subordinate was assigned to a different agency, would the following be correct; the superior who was superior up to that time remained as such, that is in a personal regard. The superior of the new agency, on the other hand, had the right to issue orders in

technical matters?

A. Yes, that may well be correct.

Q. Could a situation arise in questions of military competency that a superior had the right to issue directives to a subordinate, who was not directly subordinate to him?

A. Yes, that happened too.

Q. What influence did these relationships have - the superiors - in relationship to responsibility; is it correct that whoever issued an order had to assume responsibility for whatever he ordered and that whoever carried out the order had to assume responsibility for what he was doing?

A. That is correct.

Q. Then, I should like to ask a question with reference to another sphere; for what reason was the participation of the Waffen SS necessary during the meeting of the consulting physicians?

A. The Waffen SS, ever since the beginning of the war, was participating with the Wehrmacht and committed to the Wehrmacht and in an ever increasing amount the entire services, including the medical service, had to establish contacts, of course, fighting shoulder to shoulder with other branches of the Wehrmacht and of course were living under the same conditions and were complying with the same directives. That is why it was necessary that even at the time, when there were only a few divisions committed, that these medical officers had contact with the entire leadership and received knowledge and reports about the principles, which were valid for the entire system and that is in particular reference to physicians.

Q. Thank you, I have no further questions.

MR. McHANEY: I would like to have the record show that the questions which have just been put to the witness, have been put by Dr. Fleming for the Defendant Brugowsky.

THE PRESIDENT: The record will so show.

BY DR. HEINZ FRITZ: (Defense Counsel for Defendant Gerhard Rose.)

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Q. Witness, did you know the Defendant Rose before the 8th of May, 1945?

A. Yes.

Q. Did you at any time speak to the Defendant Rose about any of the counts as charged by the prosecution before May 8th, 1945 or did you have any written or other communications directly or indirectly with him?

A. No.

Q. Did you at any time see the Defendant Rose participate in any conferences where the counts as charged in the indictment were discussed or reported?

A. No.

Q. Apart from whether the date or the contents of the conferences, mentioned in the Ding Diary of the 29th of December, 1941, are correct or not, I should like you to tell me whether the Defendant Rose at any time took part in a typhus meeting where you or Secretary of State Conti attended too?

A. No.

Q. Is the Defendant Rose, as far as you know; or rather was the Defendant Rose considered as a specialist for typhus vaccine?

A. No, Rose in the first instance was a troop hygienist.

Q. Did you ask the Defendant Rose to give you his counsel about the investigation of the typhus vaccine?

A. No.

Q. Is it correct to say, if I assume accordingly, that Rose was not consulted by you in typhus vaccine matters, because he was not a specialist in that field, although you, yourself, as Chief of the Wehrmacht Medical Service, would have had the possibility to ask him had you wanted to do so?

A. Yes, that is correct. Rose did not belong to the center, which I would have turned to in regard to these questions.

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Q. And now another question; you were already speaking about the tasks of the consulting physicians with the armed forces. I should like you to give me some information about the special physicians and the consulting physicians with the Medical Inspectorate of the Armed Forces Branch. Were these consulting specialists of the Medical Inspectorate the superiors in any respect of the consulting physicians at any leading medical agency and by that I mean the army group physicians, the district command physicians, the air fleet physicians, etc.?

A. No, they were in no way superiors.

Q. According to the principles which were valid with the German Wehrmacht, would a consulting specialist or medical inspector ever be considered as responsible for whatever another consulting physician in his sphere did or did not do?

A. No, that is out of the question.

Q. Could you give me the reasons why one desisted from making the consulting physicians with the Medical Inspectorates superiors of the consulting physicians at lower echelons?

A. That would have been quite impossible and would not have been correct. These consulting physicians had completely different ages. They were in different age groups. They were naturally assigned from different parts of Germany and the principle was always followed that they be assigned to such army groups that were in the same home territory, so you have to consider that, and if you also consider the differences of rank it could be quite possible that an older and recognized physician, although he may have a lower rank from the beginning, that he would be confronted with a younger physician who started his career in the Army earlier and therefore had a higher rank. This in itself would have presented us with impossible situations which would have defeated the special purpose which we had in mind with these consulting physicians.

Q. What personal knowledge did you gain about the activity of the defendant Rose during the working meetings of the consulting physicians?

A. Mr. Rose held many lectures. These lectures were listened to with great interest and were finally concluded with the last lecture in the year of 1944 which was made during the last meeting, about the effects on the human body of --

Q. The defendant Rose during the entire war was the consulting hygienist and tropical medical expert with the Medical Inspectorate, or rather, with the chief of the Medical Service of the Luftwaffe. In this capacity he got into contact with you and members of your office. Would you please say something about the way he was considered materially and professionally by you and your agency?

A. Rose was considered as an extremely experienced specialist in his field, who combined great scientific knowledge with practical abilities. His knowledge was always considered to be very high, respected. His statements were always to the point and especially critical.

Q. Another question. Were the military authorities and tasks; that is

to say, the executive authorities and the power of command of a consulting scientist who had become Generalarzt of the reserve, in compliance with such that one would have to expect with any man who holds such a rank; that is to say, an active Generalarzt?

A. At first, I have to say that the general position of all generals was the same. There was no difference at all. What you are really referring to are the authorities and the power of command which he had and in that connection I have to say that the consulting physicians had no power of command and no authority to issue orders. In addition, I have to say that if an active Generalarzt was a consulting physician the question of whether he was active or not active plays no part at all. It is the position which counts, and during the entire war there was no necessity to give any special power of command to these consulting physicians.

Q. Do you remember that during the autumn of 1944 the SD wanted to introduce proceedings against Professor Rose because of treason, since Professor Rose held lectures in the neutral countries abroad, Switzerland and Turkey, wherein he described the progress in detail which was made in Germany in the field of combat of typhus and malaria?

A. Yes, I remember that.

Q. Do you further know that Professor Rose explained his attitude by saying that according to his opinion the results of medical research in war as well as in peace should benefit the entire society, just in the same way as the individual physician was obliged to make no difference in his work between friend or foe?

A. Yes, I know that.

Q. Did you know what consequences Professor Rose had to expect resulting from his attitude, and did you cover him with the authority of your agency?

A. Yes, I did that in agreement with the medical chief of the Luftwaffe as far as I remember.

Q. What would Professor Rose have had to expect had he not been covered by you and his superiors at the Air Force?

A. He would have to expect that some political measures would be taken

against him. Of course I cannot say what kind of measure.

Q. My last question. You were testifying earlier that you attended the hepatitis meeting in Breslau in the year of 1944. Was Professor Rose there?

A. No.

DR. FRITZ: Thank you. Mr. President, I have no further questions.

THE PRESIDENT: I would like to advise Dr. Nolte, attorney for the defendant Handloser, that I have had some information just handed to me that the witnesses, Dr. Wolfgang Schmidt-Brocken and Hans Hartleben, are not now available in Nuernberg. Counsel might inquire at the Defense Information Center and possibly obtain more information than I have available here.

The Tribunal will now recess until 1:30 o'clock this afternoon.

(A recess was taken until 1330 hours.)

CORRECTED COPY

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 13 February 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: In regard to the application of Defendant Rudolf Brandt for an excuse, the Tribunal directs that the Secretary-General inform the commander of the prison that he should instruct the prison surgeon to examine the defendant, Rudolf Brandt, concerning his physical condition and report to the Tribunal so that the Tribunal then may determine its future action. As the Tribunal will not be in session after this afternoon until Tuesday morning, there will be adequate time for the examination and the report.

The defendant, Rudolf Brandt, may be excused from attendance at the request of his Counsel for this afternoon session.

Is there any further cross-examination of defendant Handloser by any Defense Counsel? There being none, the Prosecution may cross-examine.

SIEGFRIED HANDLOSER - Resumed

CROSS EXAMINATION

BY MR. MC HANEY:

MR. MC HANEY: May it please the Tribunal:

Q General, as I understand it, you admit that by virtue of your position as army physician and army medical inspector, you had complete command and control over the Army Medical Service, the Sanitaetsdienst and the Sanitaetswesen, is that right?

A Yes. I was the head of the medical system of the army and the superior of the entire medical personnel.

Q And that control covered the period January, 1941, to September, 1944?

A Yes.

Q I take it, therefore, that you must assume responsibility for all official activities of the Army Medical Service during that period?

A I have already stated that I do not have any doubts about the fact that I have to bear the responsibility for whatever I have ordered through a general order or by means of a decree.

Q What was this institute for typhus and virus research at Lemberg which you testified was under the control of the OKH?

A Yes. It was subordinated to the Medical Inspectorate of the High Command of the Army.

Q Well, was that the vaccine production plant of the Behring Works at Lemberg?

A No. As far as I am informed, the Institute of the OKH at Krakow or at Lemberg did not have anything to do with the institute for the Behring Works. In any case, I have not been informed of anything else.

Q Did this Institute for Typhus and Virus Research at Lemberg for the OKH produce typhus vaccine?

A They produced the well-known typhus vaccine from the intestines of lice according to the Weigl method.

Q Under whose control and jurisdiction was the vaccine production plant of the Behring Works?

A I cannot say that exactly. I only know one thing about the Behring Works, that the name of Dr. Haas was mentioned in that connection.

Q Did the typhus institute of the OKH at Lemberg and at Krakow do any research work on the efficacy of typhus vaccines, or was their work simply restricted to vaccine production?

A The Weigl Vaccine which was produced by the Institute had already existed several years before the outbreak of the war, and as I have already stated in yesterday's session, it was produced on a large-scale in various countries, and it was tested in various countries with regard to its effectiveness and its compatibility. Therefore, a testing of this vaccine was not necessary anymore.

Q Well, your answer there is, then, that these two typhus institute of the OKH restricted their activities to vaccine production, is that right?

A Yes. I do not know what other possibility can be seen besides production, because the typhus institute at Krakow or at Lemberg, as far as I know, tried to find yet another vaccine. First of all, it was the task to carry out and increase with all possible means the production of the vaccine, and as far as I remember, it has also made experiments on animals in order to be able to cut down the percentage of the vaccine and thus to obtain a larger amount.

Q Did you ever visit the Institute OKH at Lemberg?

A In 1939 I visited the Institute at Krakow, and in 1941 or 1942 I have also visited the Institute at Lemberg. On the occasion of the visit to Lemberg I also talked to Dr. Weigl, himself, who was the man who had introduced the vaccine.

Q In other words, Weigl was working at Lemberg in 1941, when you visited there?

A Yes, he was working in the the Institute.

Q Who was the Commander of the Institute?

A Prof. Dr. Eyer, a high staff medical officer who had received special training in this procedure.

Q He was also the Commanding Officer of the Institute at Krakow; is that right?

A Yes.

Q Now, General, you testified on direct examination that after being appointed Chief of the Medical Service of the Wehrmacht on 28 July 1942, it was one of your duties to provide uniform and coordinated measures in the field of Health Guidance, research, and combating of epidemics, and all medical measures which required a uniform ruling among the Wehrmacht; is that right?

A A uniform coordination and coordination was one of my assignments or measures.

Q And that applied to the field of health guidance, research, the combating of epidemics, and all medical measures which required a uniform ruling; is that right?

A A similar text is contained in my official instructions, as to the performance of my duties.

Q And your tasks also covered the evaluation of medical experiences and medical matters of the recruiting system, of the welfare and maintenance of prisoners of war?

A Yes, but I want to point out that what you are reading now, that is from the official instructions for my duties of the year 1944.

Q Now, General, I want you to pay close attention to my questions and we will get along a little faster. The first question I put to you was, your tasks after you were first appointed on 28 July 1942, and I asked you with respect to that, if it was not your duty to provide uniform and coordinated measures in the field of health guidance research, and the combating of epidemics, and all medical measures which required uniform ruling. Now, give me an answer, yes or no?

A The decree of 1942, this is not contained --

Q (Interposing) General, we all understand it is not in the decree of 1942, or I would not be asking you the question. The fact is there was a service regulation issued on 28 July 1942, which the Prosecution has not yet put into evidence, and I am asking you some questions about your duties as contained in that service regulation, and I will ask you to give an answer now to the question I put to you.

A The tasks of the Chief of the Wehrmacht Medical Service generally referred to, what you have mentioned, the coordination of these -- also in view of these sections of the medical service which could not be coordinated at all.

Q And that covered health guidance, did it not?

A Well, this question is very difficult to answer. When I issued an order, then that indicated already that by some means I shall see that these measures are carried out.

Q And your tasks in the field of having coordinated measures also covered the combating of epidemics; did it not?

A Yes.

Q And scientific research?

A Yes, scientific research has been repeatedly discussed here, and it has been described, and it has been stated now this has to be understood. Now, one must differentiate on the subject.

Q And the service regulations of 28 July 1942, also stated that it was your job to have coordinated the evaluation of medical experiments and medical matters of the recruiting system; did it not?

A That may be, yes.

Q And it also covered the welfare and maintenance of prisoners of war; did it not?

A Yes.

Q Now, General, as you have already observed, the duties which I have just been interrogating you about, which were contained in the service regulations of 28 July 1942, issued to you by Field Marshal Keitel, are some of the same duties that are contained in the service regulations of 7 August 1944.

A I am not able to confirm that because I have personally asked for this service regulation, and as far as I am informed, my Defense Counsel has tried to, by all means, to produce this regulation in the official Army communications of 1942, and in the Army guidance sheets. They have been repeatedly requested and we were unable to find any service regulations contained in them.

Well, General, we are mutually distressed that you do not have them in front of you, but in spite of that, I am going to ask you a few more questions about it. It must be a matter of considerable information, which you have, since you were operating under that service regulation for a little more than two years. I have had placed before you the service regulations of 7 August 1944; that is Document No. 0227, Prosecution's Exhibit 6, and I just briefly want to go over it with you, to see exactly how much difference there was between those service regulations of 28 July 1942, which you do not have, and these service regulations which you do have of 7 August 1944.

DR. NELTE: Mr. President, may it please the Tribunal, I request a ruling of the Tribunal, if it is admissible, that the service regulations of 1944 are present in the service regulations of 1942, if the service regulations of 1942 are not given to the defendant. If there is a comparison to be drawn between these two service regulations, then he, as defendant cannot support himself on that alone. What the Prosecution is reading to him is contained in the service regulations of 1944, but

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he must also be given the opportunity to examine that and to point
out the practical differences, which perhaps

cannot be recognized from the text alone, especially with regard to the authority.

MR. MC HANEY: If the Tribunal please, I must object to having the cross examination interrupted in this manner. I have nothing else to say about Dr. Nelte's objections on this part. There certainly cannot be any objections to my putting these questions to the witness.

THE PRESIDENT: The Counsel for the defendant may interpose my objection that he desires to interpose. The Tribunal will ask the Prosecution if it has available the regulations of 1942, which have been referred to?

MR. MC HANEY: We do not, your Honor.

THE PRESIDENT: If the witness is unfamiliar with the regulations that are not before him, he may say so, but the objection as made by the Defense Counsel will be overruled.

BY MR. MC HANEY:

Q General, I did not tell you that we had these service regulations, and if you jumped to that conclusion by some of the questions I put to you, why that is your own responsibility on the testimony that you are about to give. In any event, we are interested in knowing what was in these service regulations of 28 July 1942. Let us look at the one of 7 August 1944, which is before you; look under Part 2 where it says "Duties". The first paragraph reads: "The Chief of the Medical Service of the Wehrmacht is the adviser of the Chief of the High Command of the Wehrmacht and of its health guidance." Was that same paragraph in the regulations of 28 July 1942?

A I cannot tell you that. I cannot remember the exact text of the service regulations.

Q General, we understand that you couldn't sit down and dictate this service regulation of 26 July 1942; but isn't it a fact that you were the adviser of Keitel after 26 July 1942 on medical questions? Isn't that right?

A Yes, that is correct.

Q Isn't that all that this first paragraph says?

A The first paragraph states; "The chief of the medical service is the adviser of the chief of the OKW in all questions pertaining to the service of the Wehrmacht and the other organizations." That is the text as it is already contained in the service regulation of 1938 or 1940 for the army medical inspector.

Q Now, General, we aren't interested in what was contained in that one. We are just interested in the one of 26 July 1942; and I take it that substantially the same paragraph was in that one. Is that right?

A Since a similar paragraph is also contained in the regulation for the special consultant of the OKW it is probable that it is provided for in the similar text in the regulation of 1942.

Q Very well, let's look at Paragraph 2. That says: "The chief of the medical services of the Wehrmacht will direct the total medical services of the Wehrmacht as far as the special field is concerned with regard for the military instructions of the chief of the high command of the armed force and the general rules of the Fuehrer's commissioner general or medical and health department." That same paragraph was in the service regulation of 26 July 1942, wasn't it?

A I am unable to give you an exact statement on that.

Q Was the same paragraph in substance in the service regulation of July 1942?

A I cannot say how many paragraphs were contained in the service regulation; how they were ordered; and what they contained individually.

Q General, doesn't the Fuehrer decree itself require you to take certain instructions in the special field from Karl Brandt? Isn't he authorized to intervene in a responsible manner by that decree?

A In the directive by the Fuehrer of 1942, as far as I know, it is

stated that the general commissioner of the Fuehrer is authorized to decide that he has to be informed about fundamental things from the army medical service; that he is authorized to include himself; that he is allowed to intervene. That is what is contained in the Fuehrer decree which we have here.

Q Let's go on to the third paragraph, General. The first part reads: "The chief of the medical services of the Wehrmacht will inform the Fuehrer's commissioner general about major events in the field of the medical services of the Wehrmacht." That was required by the service regulation of 26 July 1942, wasn't it?

A I cannot say that with certainty. It is possible that this statement is contained in my memory from perhaps this regulation. It is quite possible that the text originates from this, that is the directive of 1944.

Q Weren't you required by the Fuehrer decree of 26 July 1942 to report to Brandt on basic or fundamental events?

A Well, I would have to ask you to hand over the decree to me. I cannot state that without it.

Q But, General, you've seen this decree I guess a dozen times already; and you operated under it for about four years. Did you as a matter of fact report to Karl Brandt on fundamental events in the medical service after 26 July of '42? Can you tell us about that?

A About matters pertaining to the medical field I cannot remember any specific cases. They were mostly cases which pertained to the status of the military physicians or which dealt with special emergency conditions, or it was a request for some support or aid with vehicles or airplanes.

Q Let's go on to the next paragraph, Paragraph 3. It says: "You will represent the Wehrmacht to the civilian authorities in mutual medical affairs and will protect their interests in connection with the health measures of the civilian administrative authorities." Wasn't that contained in substance in the service regulation of 26 July 1942?

A I cannot say that. It is understood that the task of the chief of the medical service toward the civilian authorities is. I would like to

say that it is a certainty.

Q But you would like to say that it was contained in there? Is that right?

A I cannot say that. I have to state again that it is after a long time here when we discussed these questions for the first time in the discussion about basic documents which I would like to have. I came here without any documents at all; and then I requested the Fuehrer decree of 1942. If there were any additional explanations for it or not, I personally stated on the subject that something should still be available in writing. I know for certain that Dr. Nolte has obtained the army regulation sheet; but I can remember when he told us that there is nothing on the subject contained in it. I told him that I would read it over myself perhaps since he was unable to find it. Actually, it was not listed in the table of contents; and I have looked through the sheets for this particular sheet. Then there is the further documentary sheet about general army communications. Dr. Nolte obtained this sheet also, and nothing was contained in it. So that I myself became suspicious. Then Dr. Nolte wrote to somebody else and he received the information that this must be contained in the army regulations, either on sheets A, B, or C. Then we again read over the army sheet of regulations; and we did not find anything whatsoever in Parts A, B, and C.

Q Now, General, this is all very sad that you haven't been able to find all these documents that you'd like to have; but both the defense and the prosecution are laboring under some of these same difficulties. I am just trying to get a little information from you here about what you were doing as chief of the medical services of the Wehrmacht; and I assume that since you held that job for about four years, you have some vague recollection about what you were doing and what you were supposed to do. One of the questions is just exactly what changes took place after this service regulation of 7 August 1944. I have a very vague suspicion that your duties and your powers weren't broadened to any substantial extent at all; and I am now trying to find out wherein lies the difference between your duties

and responsibilities as of 26 July 1942 and as of 7 August 1944. Now, if you don't know and can't tell us what these differences were, will you just go ahead and state right now that you don't know, and then we can move on to some other topic.

A I have already stated here that it is clearly indicated by the Fuehrer decree that the main difference lies in that I was granted an authority to issue orders; and the second is a separation of the previous personal union between the medical inspector.

Q Now, General, we understand this separation; and I'm of the opinion that that was really the reason that this second Fuehrer decree was issued and that that was substantially the only reason; but you say that in addition you got some power to issue orders. I suppose that is contained in Part I of this service regulation. Will you look at that and tell us wherein this additional power was given to you?

A It is stated under Number I in the last sentence of Paragraph 1 of the Fuehrer decree: "He is authorized to issue orders in all specific questions within his field of competence." In the decree under Article 2 in the service regulation approved by the Fuehrer it is stated under Paragraph 2, II, "The Authority who, according to Paragraph 1, that is, is the authority in question, also refers to the army medical inspector, the chief of the navy medical service, the chief of the medical service of the Luftwaffe, the chief of the medical service of the Waffen SS, and the medical chiefs of the organizations and services employed within the framework of the Wehrmacht, while they are acting in the area of command of the Wehrmacht." Therefore, that is in Paragraph 2 the explanation of the authority given in Paragraph 1 of the Fuehrer decree.

Q You didn't have any power to issue orders to Hippke and Schroeder before 7 August, 1944, is that what you want to say?

A Before 1944 I did not have authority to issue orders.

Q Before 7 August, 1944?

A Yes.

Q Well did you have any power to issue general instructions which would be binding upon Hippke and Schroeder?

A After the decree of 1944 I was able to do that.

Q We are not talking about the period now after the service regulation and the Fuehrer Decree of 7 August, 1944. We are both agreed that from and after that time you could issue orders. I am now inquiring about your authority before that time, and I asked you if you could issue general instructions to Hippke and Schroeder which would be binding on them?

A In the field of material coordination and from the necessity which arose for a simple case within the Medical Service and its coordination, I was able to issue an order in cases of this kind, because otherwise I would have been unable to carry out such a coordination. However, the branches of the Wehrmacht and the Medical Chiefs were able to object to these orders and I did not have the authority to issue directives, authority to issue those directives in the form of an order, and that is what is the main thing in the military field.

Q Before August 1944 you did have power to issue directives, but you say you did not have power to issue orders, is that right?

A Yes, that is correct.

Q Could you go to Keitel and have him pass down an order for you to Hippke and Schroeder?

A Yes, to a certain extent Keitel was able to issue such a directive. That is also the case with regard to mutual measures, like, for example, the protecting of troops against the winter and similar cases.

Q We understand your special field, General, and nobody is insisting you had the power to issue an order to Hippke having nothing to do with

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the medical service of your so-called special field. We are just limiting ourselves to the special field. Now, doctor, Hippke has testified before another

Tribunal here and he was - I am reading from the English transcripts, of the 7 February, 1947, in the action "United States vs. Erhard Milch", page 765, Hippke was asked:

"What was your official connection with General Oberstabsarzt Handloser of the Medical Department of the Wehrmacht?"

And Hippke replied:

"When the Medical Department of the Wehrmacht was created it was sought to combine all questions that concerned any of the three branches of the Army, and he was my superior as Medical General. Handloser who had previously been on an equal basis with me as medical inspector for the army, now when he also took on the new task, he became my superior."

And then the further question was put to Hippke:

"Well could he give you orders? What do you mean by the word "superior"?"

And I know you will be surprised to hear that Hippke answered:

"Yes, he could give me orders and establish a policy."

Now, was Hippke not telling the exact truth when he said you could issue orders to him? You know Hippke went out on the 1st of January, 1944, and that was seven months before this second Fuehrer decree was issued. What do you have to say about Hippke's testimony?

A In connection with his testimony I want to say that if Hippke claims that I had authority to issue orders and if he has described me as his superior, then I am unable to understand that, because then it would have been completely unnecessary to expressly demand in 1944 that I be given authority to issue orders in a particular manner, and Admiral Doenitz would still be able to remember this exactly, that in accordance with my previous experiences, I could only recall carry out my assignments if I was to become his superior, and the Gross Admiral, in spite of all efforts by Keitel, disapproved this, and with a lot of difficulty in 1944, he finally succeeded in obtaining for me the authority to issue orders. All of this would have been unnecessary if I had been given authority to issue orders already in 1942.

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Q Well it still would have been necessary because you left your job as Army Medical Inspectorate, you know, so that it is quite natural they would issue a new service regulation. Was there any difference between the Army

Medical Inspector and the Chief of the Medical Service of the Army?

A No, but between the Army Medical Inspector and the Chief of the Wehrmacht Medical Service.

Q What was the difference?

A The Army Medical Inspector was the head of the Army Medical Service.

Q General I understand, at least I think I understand, they were both heads of their respective medical services, but I am curious to know why there was this verbal difference between the Chief of the Medical Service of the Luftwaffe, and the Army Medical Inspectors. Is there any reason for this or is it just old practice?

A The Army Medical Inspector, whose office was already in existence before the Luftwaffe was established, has always had this title, because the army was organized in this manner. It was organized to the extent that all of the branches had their own inspector. There was an Inspector of the Infantry, of the Artillery, and also an Army Medical Inspector. In the course of the years this could not be changed in spite of the title, although the title did not apply.

Q With respect to your medical duties as Chief of the Medical Service of the Wehrmacht, was Karl Brandt your technical superior?

A I have already stated yesterday or the day before that Brandt was not my superior.

Q Well why did you make such a statement in your affidavit, General? Were you imposed upon by one of these interrogators?

A I have also stated here in the brief history of my life, as I have called it here, this contained many mistakes, and in the end and also some part of the draft when it was presented to me, it contained the following sentence: "Professor Brandt was my military and my medical superior", that is approximately what was stated there, and then I stated in that connection, that is incorrect, and I have crossed out the word "military" and then by mistake the "superior" remains with regard to the

medical field and I have corrected that there.

Q Well General, I have heard what you have testified, but I am at a loss to get any sense from the testimony. You admit you struck out some

language in the same sentence, why didn't you strike the whole line out? Why did you leave the words "he was your medical superior", after all you are a man of intelligence?

A There were so many corrections and I made a mistake there. I have left at least ten which according to our concepts were not correct either.

Q But, General, didn't you draw this chart for us in your own handwriting?

A That is the diagram.

Q Doesn't that show Karl Brandt up at the top over you? Was that a mistake too?

A I have also tried to explain that.

Q I heard your explanation, General, but there again it didn't satisfy me. Why did you put Karl Brandt up at the top, unless he was in fact your superior in technical matters. What did you put him on the chart at all for?

A Because it cannot be claimed and because I wanted to avoid stating that I had not had any contact at all with Professor Brandt because after all the contacts are stated in the Fuehrer Decree and I did not want to place him next to me or beside me. That is purely technical question.

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Q. General, wasn't Professor Brandt your superior with respect to all duties outlined in the First Fuehrer Decree?

A. In the First Decree, as far as I know, it is stated....

Q. General, we know what the Decree states. I am asking you to draw a conclusion. Isn't it true, with respect to your functions outlined in this First Fuehrer Decree, that Karl Brandt was your superior?

A. I have always refuted this concept.

Q. Well, if he wasn't your superior, exactly what relationship did he have to you?

A. I turned to him whenever I believed that I should report some special incident within the medical fields to him and that I should bring it to his knowledge because I assumed that this would somehow reach the ears of the Fuehrer. That would be more appropriate if he were to be informed by a specialist in that field, or if it were to be explained to him by specialists in that field, because if they were to be reported by laymen the whole thing may have been distorted. And, whenever we were in an emergency position with regard to transportation for our wounded I turned to him and asked him if possible to help in some way, for example, by furnishing us a squadron of aircraft which the Fuehrer Headquarters had at its special disposal.

Q. Isn't the utilization of material and personnel a common problem of all branches of the Wehrmacht?

A. Yes.

Q. Therefore, it is true that this matter fell within your jurisdiction?

A. Yes.

Q. And that was as of the date 28 July 1942?

A. Yes.

Q. Very good. Now, General, will you tell us who in Germany was better informed than you were on military medical science and research in general?

A. About military medical sciences?

Q. And research.

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A. In my field? Well, there was quite a number of specialists.

Q. Just a minute, general, I know there are probably a lot of people who had more information about typhus, and others had more information about epidemic jaundice, and other people who had more information about yellow fever. But, I ask you who in Germany was better informed than you were on the general picture of military medical science and research?

A. If you speak about general matters in the field of military medical science as far as the Wehrmacht was concerned, then I believe that I am quite well informed. However, I must except the special branches of research and the medical matters of the Luftwaffe and the Navy of which, to state briefly, I do not have the slightest idea.

Q. I understand perhaps you are not as well informed as others on the research problems which pertain exclusively to the Luftwaffe or to the Navy. Now, you speak of calling together the medical chiefs of the Wehrmacht branch in an effort to avoid duplication of research. When did you do that?

A. I did that in the field of malaria and I did it with regard to the inoculations for as this refers to typhus, para-typhus, and cholera. I have further directed coordination of the Scientific Service conference which dealt with general vaccination against dysentery. Aside of that I cannot name any other precise case in that connection.

Q. Can you give us the dates on which you called the medical chiefs together?

A. They were not only medical chiefs but also special advisors. With regard to malaria I believe that this was in 1944 because Schroeder had already taken office. Prior to that time malaria and combatting malaria was coordinated without any conference between medical chiefs perhaps was in 1942, or at the beginning of 1943, because the inoculations were carried out in 1943 and 1944.

Q. What about the typhus?

A. That is not a typhus vaccination. When we say typhus then we mean typhus. Then we must state here that what you know as typhus, that is what we

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call fleckfieber, which means typhus.

Q. I thought I understood you to state that you called together medical chiefs of the Wehrmacht branches to coordinate vaccination against malaria. You mentioned something else and I thought you meant fleckfieber.

A. I believe that I have said typhus, para-typhus, and cholera.

Q. Meaning typhoid, is that right?

A. I have meant what you describe as typhoid.

Q. General, what was the Scientific Senate of the Medical Services of the Wehrmacht?

A. The Scientific Senate is an institution which was first established in 1895 and whose members at that time were appointed by the Emperor and, subsequently, by the heads of the Government. It had a certain number of regular members and of irregular members and they were the leading scientific personalities in Germany in the medical field, and also a number of older and especially experienced and also specially trained active medical officers and if one of these regular or other members left, then the Army Medical Inspector, who was in charge of the Scientific Senate, a successor was suggested to the head of the State who found that one was appointed a member of the Scientific Senate.

Q. You were President of that body, weren't you?

A. I was the President of the Scientific Senate, just like all my predecessors since 1895.

Q. And did you have that presidency by virtue of being Army Medical Inspector or Chief of the Medical Services of the Wehrmacht?

A. I had this presidency in my capacity as Army Medical Inspector and this Scientific Senate remained an establishment of the Army until the end of the war. It was intended to convert it into a Wehrmacht Scientific Senate. However, as a result of the happenings of the war which came about so speedily it was unable to carry that out.

Q. You continued to be President after 7 August 1944, didn't you?

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A. The Senate was not called since the year 1942.

Q. That isn't what I asked you. I asked you if it isn't a fact that you continued to be President of the Scientific Senate of the Medical Services of the Wehrmacht after 7 August 1944 as it states in the Service Regulation.

A. No, there is something wrong here in the Service Regulation the Senate of the Wehrmacht Medical Service is already included here. However, it was never established but it remained the Army Scientific Senate and, therefore, before it was reconverted my successor, the Army Medical Inspector, would have continued to be its president.

Q Did you ever make any reports on scientific research to Karl Brandt?

A I cannot remember that that has ever been the case.

Q What about after his Office for Science and Research was set up?

A Even then I did not submit any reports to him.

Q Did you request the Medical Services of the Army, Navy, and Luftwaffe to keep Brandt's office informed?

A Certainly some form of correspondence must have existed. From a certain period of time, perhaps February of 1944, I assume that these reports were given about research assignments and that the Office for Science and Research was to be informed.

Q Didn't you also require the Medical Services of the Army, Navy and Luftwaffe to send you copies of these research assignments?

A If these agreements were reached, or how they were reached, I am unable to say. However, it is something which is closely connected. In this case there were not reports concerned, but, first of all, assignments.

Q You have said that aviation medicine could not be coordinated by you in your capacity as Chief of the Medical Services of the Wehrmacht. What about the work of the Luftwaffe hygienists working on a problem like typhus?

A If any question was discussed in the field of typhus, then either a conference was called in which all the hygienists participated, or something was drafted in writing which was sent to the various branches of the Wehrmacht for their comments; and the hygienists would have been competent as specialists in that field. In particular, in the field of typhus, I can remember, with the branches of the Wehrmacht, only the problem of delousing, which plays a very important

part in the case of typhus. I assume that in this field with the chemical as well as with the physical delousing, a connection and a mutual orientation of the hygienists, especially since I had an assistant who was particularly acquainted in this field and who had actually devoted all of his work to this question of chemical delousing, which had assumed some new aspects.

Q Now you have admitted that on a problem like vaccines you, as Chief of the Medical Services of the Wehrmacht, had the power to establish a uniform practice in the Wehrmacht, for example, as to the types and times of vaccination. Didn't you have to know of the efficacy of these vaccines, and their reactions to make a decision like that?

A In the Military Medical Services there was no decision made at any time about a vaccination without first calling several physicians for consultation or without a Scientific Senate taking place. Examples are indicated by the program of the session of the last Scientific Senate where this question particularly played a special part.

Q Who was the Commander of the Military Medical Academy?

A That was Generalstabsarzt Professor Dr. Haman.

Q Who invited the various doctors to participate in these meetings of the consulting physicians?

A The man in charge was the person directed to preside over the meeting. Before 1942 it was the Army Medical Inspector, and after deciding on the program, he distributed a list of the number of persons participating, to the individual branches of the Wehrmacht. With the exception of those

people who were requested to issue reports, it was left completely to the branches of the Wehrmacht as to whom they wanted to send. Therefore, the selection was left to the Army, the Navy, and the Luftwaffe.

Q I take it, then, that you decided on the lectures and the persons who were to give them; is that right?

A A working staff was appointed, and through the years of my activity it was Generalarzt Schreiber who was the man in charge of the working staff. I, on my part, stated the subjects on which I placed special emphasis. And, on the part of the individual chiefs of the branches of the Wehrmacht, all the subjects were suggested on which they placed special emphasis. At the same time, several names were offered who could be considered as people to make the reports.

Q Well now, are you telling us that you just simply suggested the subjects for discussion and those subjects were then passed on to the Army and the Navy and the Waffen SS, and they picked out the doctors who were to give these lectures?

A Yes. Of course, there were also cases when I, for example, stated to the Luftwaffe that I would like to hear a lecture by Professor Toomes, who was a leading man, or, in some other field, Professor Rose, who gave lectures rather frequently; or, perhaps I may have mentioned some particular person in the Navy. However, the offers usually came from the branches of the Wehrmacht.

Q All right. Now, the Navy, or rather, the Luftwaffe, has decided, since you think you want a talk on malaria, that they will send Professor Rose. What does the Luftwaffe then do about that? Do they send in a short synopsis of what Rose is going to say? Or what do they tell you then?

A They say that Rose is at my disposal, or that Rose

cannot be furnished, and then we have to select somebody else.

Q Well, then I assume that the program was finally drawn up by you, or Schreiber as your agent, for these meetings of consulting physicians. That is right, isn't it?

A Yes. In the end, the working staff had a draft which was divided into the individual working groups, the people who were to give the lectures, and the subject of the lectures. Then Schreiber came to see me and he submitted this big draft to me. Then, in general, outside of changes with regard to the time, we did not make any changes in the program which had been composed by the various people who were interested.

Q Well, what I am curious to know is how Doctors Ding, Gebhardt, Fischer, and Holzlochner made reports at these meetings.

A What do you mean by how did they give the reports.

Q How did it happen that they were invited to make these reports?

A That may have been done for different reasons. Either the Waffen SS or the Luftwaffe may have suggested the aviation medical officer Holzlochner to Dr. Ding; or, with regard to the Problem of cold, which also existed in the Army, perhaps, in the course of a discussion between the working staff, somebody may have raised a question as to whether Holzlochner -- who had gained special practical experience in the Antarctic -- might not be able to report about his experiences.

I cannot state it exactly because I have not participated in any sessions of the working staff. It was only my task to state beforehand what had to be included in the program under

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all circumstances, and to state at the end whether I approved
of this program or not.

Q Well, General, I am just curious. Now let's take Ding for an example. You have passed along the word that you want typhus discussed in the meeting in May, 1943, and that goes down to the Waffen SS. Gonzken over here writes back and says, "Dr. Ding can give you a good talk on typhus." Now doesn't somebody in your office ask, "Now what in the world can Ding tell us about typhus? What has he been doing in typhus research? Who is Ding anyway? What can he tell us about typhus?" Doesn't somebody ask these questions?

A I was not asked any such questions.

Q Doesn't your program chairman inquire into the qualifications in the work which a proposed lecturer has done?

A The working staff contacted the individual branches of the Wehrmacht. They, after all, had to know what man they wanted to furnish for the lecture. They would not call a man who was not an expert in his field, because he had to count on the fact that in the course of the discussion he would, in a certain way, also be cross examined. And with such a circle of scientific outstanding personalities no man would be furnished of whom it is assumed that he does not possess the required knowledge. Therefore I really cannot tell you just how, in detail, Dr. Ding was suggested by the Waffen SS and how he formulated the program.

Q Had you ever heard of Dr. Ding as being an expert in typhus?

A No.

Q When did you first meet Dr. Ding?

A I have stated here that Dr. Ding is completely unknown to me, and I have told my interrogators, Mr. Rapp, with regard to this person and to others, that he should not be surprised if it should be discovered sometime that on some occasion or other, for example, with the opening of a session or at the end, such a man has been sitting together with me in one room. However, I do not understand that to be an acquaintance, and I must state on the subject I have

heard the name of Ding for the first time when I was in the English zone, in the British zone, after the capitulation, when I saw some articles by him in the paper. I heard of him for the second time when I received a letter to the effect that Schreiber has testified here before the International Military Tribunal, according to which Dr. Ding had given a lecture.

Q Well, just a minute. I think you have given us a sufficient answer to that. I just want to ask you now if you read these reports you published on these meetings of consulting physicians. Do you normally read those?

A The printed reports?

Q Yes.

Q I have read them exactly in part, and part of them I did not go over, just as it is usually done with books of that kind. First of all the chapters are selected which are of special interest or which have the most priority, and everything else is laid aside for a later opportunity, which of course never arises.

Q I think that is sufficient, General. I just want to ask you now then, I assume that you did not read the summary of the report made by Ding at the meeting of your consulting physicians in May, 1943. You didn't read that?

A I have read the report by Ding here.

Q But you didn't read it after it was published sometime in 1943?

A I cannot remember it, because the report of '43 was probably published six months afterwards. When and if it came into my hands, I cannot say; and I cannot say, either, if I have read it at all.

Q Your memory was pretty good when you testified a moment ago that the first time you ever heard the name Ding was in the British zone and when you read it in a newspaper. Do you now want to tell us that maybe you did read this Ding report back in 1943?

A I cannot tell you that. The reports offered came very late, at a late time after the lecture. I have already expressed that because

of this reason I made an innovation in 1944 that the most important part, namely, the directors, should be separately printed in the form of a little booklet, that they should be given priority, because it took an extremely long time during the war to have these reports printed, because quite a number of copies were needed, and it had already become very difficult with regard to the printing facilities.

THE PRESIDENT: The Tribunal is about to recess. The witness, the Defendant Handloser, being under cross examination, will not be allowed to communicate with any person until his cross examination is finished. The Tribunal will be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

Q General, do you want the Tribunal to believe that no one on your staff checked into the qualifications of Dr. Ding as a typhus expert before it was approved that he deliver this lecture at the meeting of the consulting physicians in May, 1943?

A I cannot make any judgment on that question. The working staff, in general, probably thought that they were tied to the suggestions of the Wehrmacht Branches.

Q In other words, they abdicated their judgment to the Waffen-SS that Dr. Ding was a typhus expert and that he had some words of importance to occupy the time of such men as Schreiber, Rose and Eyer? Is that right?

A If I personally received these suggestions, I would only have raised an objection if there were any occasion to do so.

Q Let me put a hypothetical question to you, Doctor. Let us suppose in April, 1943, you were personally arranging the program for the meeting of the consulting physicians in May 1943, and that you had designated typhus and typhus vaccines as one of the matters to be discussed and that the Waffen-SS suggested the name of Dr. Ding. You have already testified you had never heard of Dr. Ding. I am asking you what you would have done with respect to including Dr. Ding on the program to lecture on typhus under those conditions?

A I would have done the same thing I did with reference to other suggestions by the SS or suggestions by other branches of the Wehrmacht when I did not know all the gentlemen. I would have to rely upon their suggestion. This was not my task. I did not have time to investigate the quality of the individual suggested. I was only interested in getting the leading people for these lectures to which I attached particular importance. I had to have enough confidence in the medical chief of the Wehrmacht branches to know they would put people at my disposal who would serve the purpose well. That is all I can say.

Q I would like to investigate your failure to read this report by

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Ding. I must assume from that, that you were not interested in the effectiveness of the typhus vaccine produced from egg yolk?

A No, that is not right. According to my opinion ever since 1943 I received information about the vaccine situations, and I can say that so far as I am concerned, and so far as I had anything to do with the matter, the entire typhus complex was postponed. For the center of gravity and all the work was based on the delousing. That was a basical change which was of great importance.

Q Now you recall having read Dings' report here in Nurnberg on egg yoke vaccine, and its effectiveness was really the care of the problem he was dealing with, and in this report he compared the effectiveness of egg yoke vaccines to the better known Bergl's vaccine, and I think also vaccine developed from rabbit lungs. You were not interested in that matter, is that right?

A Certainly I was interested in these questions. I remember that through various ways I tried to gain various information on the typhus question, and among others I read an article which appeared in the press which was a long article on measures of ability of leadership at home, which was contemplated in order to protect against typhus, and this article -- this egg yoke question was also mentioned. Then discussions were carried on with Mr. Eyer as to whether we should extend the different vaccine procedure, and, Mr. Eyer also dealt with the question whether we could not use rabbit lungs, or dog lungs in a much more productive manner. Apart from that Mr. Eyer increased his production in such a manner, which was greatly to my satisfaction; that considering the progress we made in the program of delousing, these questions, which you have just mentioned, were not of such a primary interest as you tried to express here.

Q General, I am not trying to express anything. I am asking you about your interest in these matters. I suppose you know where Eyer got his information and the effectiveness of these dog lung and rabbit lung vaccines, don't you? He got that from Bucherwald, didn't he?

A I can not say, but I am sure that it was contained in literature, too.

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Q All right. Where did they test these dog lung and rabbit lung vaccines; in other words, where did Eyer get his information if he did not get it from Buchenwald?

A You must not forget that I had my own hygienist on my staff in the headquarters, and it was one of his tasks, this hygienist, to inform himself about besical questions, and then to inform me accordingly, and, then I only know that the creating of that, that of considering the increased production of Mr. Eyer, and considering our delousing program, and considering the typhus situation, as it prevailed in 1942, that was the second half of 1942, we would not need to resort to that, and we actually proved this. I am really very interested in medicine, not only officially but also personally, but we are now seeing these things in a retrospection, and at that time I saw them the other way around, and I looked at these things from a very different point of view, as is the case here now; therefore, the situation is basically different.

Q Who was your hygienist on the staff on whom you relied?

A That was Lecturer Dr. Bickart.

Q Will you spell that?

A B-I-C-K-A-R-T, Bickart.

Q You did not answer my previous question. Where in Germany to your knowledge did he carry out any research on the effectiveness of dog lung and rabbit lung vaccines; in fact, on any vaccine, do you know?

A Well, I only know that the Robert Koch Institute bore that vaccine, the Behring Works, and probably the Institute for Experimental Therapy in Frankfurt, and if you would be kind enough to read the article which was submitted by my defense counsel of a document which was written by one of the oldest experts on typhus and typhus vaccine, namely, Geheimrat Otto of Frankfurt, then I am sure that you would be enlightened about this complex question regarding mice and rabbits, and you will be completely informed about the subject. This was written in a paper where one could understand it, which is not a medical journal, but a general knowledge journal, and I think it is written in such a manner that it contains complete and excellent information about the situation. It is not a

subjectively written report, and it is not a report made by a general medical specialist of Frankfurt, but made by an expert, and I think this report would answer all your questions.

Q. Geheimrat Otto, as I recall it, was attached to the Ministry of Interior, is that right?

A. No, this Geheimrat Otto was always the President, or at least for many years, of the Institute for Experimental Therapy in Frankfurt.

Q. And did you rely on his advice on this typhus question?

A. He was my adviser, and it was his task to do that. He had so much knowledge and ability that I could rely on him in the same way I could rely previously on Schreiber.

Q What do you mean, "rely previously on Schreiber?"

A I mean that on the basis of Schreiber's knowledge and work and his efforts, I could rely upon everything he suggested or whatever he gave me for my information. Considering the extent of my work, I was not in a position at all to read everything myself, and that certainly was not my task. I had these things reported to me by my department chiefs, and I then had to draw my own conclusions and sometimes asked questions if I thought it was necessary.

Q Well, I understand that, General, but the way you phrased your answer, it might lead somebody to believe that you quit relying on Schreiber and started relying on Otto, and that is not the case, is it? Schreiber was working with you up until the end of the war, wasn't he?

A Yes, but Schreiber did not act as my immediate advisor in my vicinity until the end of the war. Schreiber was with me in the army at the front until 1942. He was at the Medical Inspectorate until 1943, and then he went to the Academy, where he headed a scientific group, and of course he removed himself from me to a certain extent. I had, of course, an opportunity to collaborate with him, but he was not my immediate collaborator anymore.

Q Was it not the purpose of these meetings of consulting physicians to establish a basis for the issuance of medical directives?

A Yes.

Q General, I understood that you never were a member of the Reich Research Council; is that right?

A Yes, that is right,

Q Did you ever attempt to become a member?

A I spoke to Field Marshal Keitel about that when the Reich Research Council was created. I asked him whether it would not be right if the Wehrmacht was represented there. He at that time was of the same opinion and made that application. He repeated it at a later date, but the application was rejected. The reason was given that the individual expert departments were all covered by experts, that Field Marshal Keitel

was a member of the Presidial Council, and that, in addition, the President reserved the right whenever any basic question came up which particularly concerned military medicine to call upon the Chief of the Wehrmacht Medical Service in such a case and use his advice. That, however, never happened.

Q General, I think that is a very clear picture of how these members of the Reich Research Council operated. They were representatives of the other medical services, weren't they?

A I personally?

Q The members of the Reich Research Council were appointed to the Reich Research Council in a sort of representative capacity for some other medical agencies, such as the Army Medical Inspectorate, weren't they?

A There was no representative. The Army Medical Service had no representative on the Reich Research Council.

Q Who was Schreiber?

A Schreiber was a medical officer who had the expert department -- I should not call it a department; he was a plenipotentiary for the combatting of epidemics. That was a task which had nothing to do with his position as medical officer. In this position he had no relation to me whatsoever and was not dependent upon me or the army.

Q Well, now, General, do you want to go back then and change that unfortunate word that you used a moment ago when you said you urged your appointment of the Presidial Council of the Reich Research Council on the ground that you would then be the representative of the Wehrmacht? Isn't that what you said?

A Yes. Schreiber was not a representative of the Wehrmacht. Schreiber entered the Council as an expert on the very special field of hygiene. I certainly did not fit into any position as a plenipotentiary or in an expert department. I was only interested in seeing to it that if something like that was created that the Medical Service --

Q Could be represented?

A -- would have some kind of representation, as is usually the case.

Q And you want the Court to believe Schreiber worked in the Reich Research Council with his left hand and in the Army Medical Inspectorate with his right hand and that the one did not know what the other was doing; is that right?

A I would not like to lead you to believe that. The first part is a fact. Whatever happened in the second part, namely, the knowledge of the right or the left hand -- a man cannot cut himself into two parts, but some personalities can keep these two things apart quite well. For Schreiber this no doubt meant a recognition of his efforts as an expert, being incorporated into the Reich Research Council as a representative for the combatting of epidemics. He emphasized that, and he felt himself rather elevated through his new position.

Q Well, now, wasn't Schreiber, as a matter of fact, the representative for the Army Medical Inspectorate on the Reich Research Council?

A No.

Q Did Schreiber not report to you concerning his activities as a member of the Reich Research Council?

A No.

Q How did it come about that Schreiber was appointed to membership on the Reich Research Council? Did you recommend him?

A No. Schreiber one day came to me, very much pleased with himself, and he told me that he had received a request to take over this position. He asked whether he would have to inform his chief first, and in reply I told him that I authorized him to accept this position in the Reich Research Council and that, if necessary, I would help him in his medical sphere if it should come about that he could not quite manage his work. That is what happened.

Q Didn't you exploit his work in the Reich Research Council which he performed there? Wasn't he really doing the same work in the Reich Research Council that he was doing as an officer in the Army Medical Inspectorate?

A I received no insight whatsoever into his assignments or his tasks during the time that Schreiber was in the Reich Research Council.

Q Is it not a fact that the Army Medical Inspectorate or some other appropriate army medical agency represented officer associated with the army for membership in the Reich Research Council as their representative?

A I don't know that.

Q Did you or any agency subordinate to you ever receive reports on scientific research from the Reich Research Council?

A According to my knowledge, no.

Q How were the results achieved by the Reich Research Council applied in a practical manner in the medical field if you did not receive any reports?

A I don't know whether Schreiber had any possibility or used any possibility of communicating directly with the hygienist and thereby received some material, or whether he used the material which he received as commander of the scientific group, I cannot say. At any rate, no authority, no assignments, came from me officially.

Q Well, do you want this Tribunal to believe that the Reich Research Council insofar as it investigated medical and scientific problems was working in some sort of a vacuum and that the results they achieved did not come to anybody's attention? After all, they were not of any use to the Reich Research Council itself.

A Well, I don't know how far the Reich Research Council progressed with its intended work. There were many institutions which were thrown up, but you never heard anything further from them. I can only say that I personally received nothing; nothing came through my hands which impressed me in any way, and I am referring to any particular point or files regarding the medical research which was sent by the Reich Research Council to me. I don't know whether the Council had a special organization or a newspaper or any other such channel through

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which this agency could publish its work, but I don't remember anything
like that.

Q I assume then the Schreiber didn't spend much time on his work with the Reich Research Council, since they didn't produce anything that you know anything about?

A Schreiber was very industrious. Whether any results were achieved, I cannot say. If they must have referred to experiences which he previously gathered in the Army Medical Service, or some summarizing information about military and civilian experiences. At the moment I cannot recollect any specific case.

Q Now, wasn't Schreiber, as a practical matter, subordinated to you in all his official activities, including whatever he did within the framework of the Reich Research Council?

A For his activity in the Reich Research Council, as I repeatedly declared here, Schreiber was completely independent of me and the Wehrmacht.

Q Suppose you decided that Gutzeit would be more useful to the Army on the Reich Research Council than Schreiber; couldn't you have substituted Gutzeit for Schreiber?

A No.

Q How did Schreiber divide his time, with respect to his work on the Reich Research Council and as an officer in the Army Medical Inspectorate?

A I cannot say that. Schreiber was no longer in the Army Medical Inspectorate, when he entered the Reich Research Council, and how he divided his time was a question that he had to decide with his commander, who was his superior.

Q General, I want to hand you Document No. NO-1490; maybe we can get a little bit better idea about what these fellows on the Reich Research Council from the army -- how they were appointed and who they were representing?

MR. MC HANEY: I offer this as Prosecution Exhibit No. 450, for identification.

Q (continuing) General, will you read aloud this letter from Fromm to Goering, dated 9 September 1942?

A Yes. "On 20 August 1942, I named 42 gentlemen through Army Ordinance as members of the Reich Research Council, in the field of armament.

"From the further army branches, I have to propose:

"(1) Presiding Council. Since Secretary of State Gontt and Professor Brandt are members of the presiding council, it seems to follow to call the Chief of the Medical Service of the Army-General-Oberstabsarzt Prof. Dr. Handloser - also into the presiding council, in compliance with the decree of the Fuehrer concerning the Medical and Health Service, dated 28 July 1942 (Reich - Law - Publication 87/42).

"(2) Reich Research Council. It seems to me to be necessary to adopt the matter 'Military Medicine' after (e) Luftwaffe as a special field of research for the consulting board of managers.

"I request to call Oberstarzt Dr. Schreiber, Chief of department with the Army Medical Inspectorate, as a member of the Research Council in the field of Military Medicine.

"I assure that if necessity should arise, individual experts in social fields, for instance, veterinary service, protection against epidemics and poison gas, Nutritional chemistry, Textiles could be assigned to the Reich Research Council without giving a nominal quotation at the present.

"(3) Consulting board of managers. I request to call Professor Dr. Loos from the Technical College at Berlin, as an expert for the Army into the consulting board of managers. If the consulting board of Professor Loos should deem it necessary to have an Army Officer assigned, I shall make suggestions." Signed "Fromm."

Q Did you confer with Fromm about the appointment of these men to the Reich Research Council?

A In my opinion, discussions of that question went through Keitel, then to the Chief of General Wehrmacht Office, Reinecke, who was exactly informed about that matter. Whether it was from there transferred to Fromm, I cannot judge. Fromm had nothing to do with me as Chief of Wehrmacht Medical Services. He only had something to do with me in my capacity as Army Medical Inspectorate. The Chief of the Wehrmacht Medical Services was tied to the OKW, which was tied to the higher agency. I have said before that I have discussed this question with Keitel and

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that it was rejected. I always assumed that this was something that
originated from Keitel or Reingke. However, that makes no difference.
May I say something else? In addition,

it says here, at the top, "Chief Armament of the Army": That is Reinecke and that is OKW, namely, the General Wehrmacht Office. I think the situation was that they caused Fromm to make this application, rather than having the OKW do it themselves, which I think would have been the more correct way of dealing with it.

Q Well, General, you want the Court to believe that they appointed these subordinates of you to the Reich Research Council without consulting you about it or asking you your views in the matter?

A With my "subordinates" you probably mean Schreiber, don't you? It says here, about Schreiber, that he was suggested as a member for the field of military medicine.

Q Very well, do you mean to say that Military Medicine was not represented on the Reich Research Council?

A Military Medicine was not represented at all, later. He was merely responsible for the special field of combat of epidemics.

Q I'm asking you again, did Fromm or Keitel or Reinecke or any one of them ask you your opinion before Schreiber was recommended for appointment to the Reich Research Council?

A I cannot say that, now. That was in September 1942. It is really improbable that a medical officer in my office would have been disposed of without my knowledge.

Q I should think so too. Now, do you want the Tribunal to believe that General Fromm and yourself, in having Schreiber appointed to the Reich Research Council, were abdicating control over him, and thereby losing his service to the extent that he was active in the Reich Research Council?

A In that connection I have to say that these relationships as they can be seen from this document are completely different from those which actually came into appearance when Schreiber actually entered the Reich Research Council without the assistance of the Wehrmacht. Here he was supposed to represent the field of Military Medicine and that is

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something entirely different. The agency for Military Medicine is the
Army Medical Inspector or if you like, the Chief of the Medical Service,
but the field of

work which actually was assigned to him later was no longer a certain sector from the military field, namely, the military medical service, but that was an all-comprising field of the combat of epidemics. These are two entirely different fields, and, in this latter field, he had no connections with us whatsoever. I don't say "to me" but I say "to us." If, on the other hand, he had come to the Reich Research Council as a military medicine man, if I may say, then the thing would have been entirely different.

Q Did he, in fact, go there first as a military man, as you put it?

A No; nothing ever came of his suggestion, as of the intention that the Chief of the Wehrmacht Medical Service is demanded here be included in the records.

Q Well, we understand that you didn't succeed in your desire to be appointed to the presiding council, but it doesn't follow that Schreiber was not appointed after this letter was sent and I submit to you that he was, in fact.

A That is an error for no further application was made, coming from us, that is the Wehrmacht, namely, that Schreiber was to be included in the Reich Research Council. Through what channels this came about I can't say, but, at any rate, it was not through military channels.

Q Well, when did Schreiber become a member of the Reich Research Council?

A The change of the Reich Research Council took place about the end of 1942, but I think I heard here that in 1943, the Reich Research Council reactivated itself in 1943 in a new form but I'm not quite sure whether that's correct.

Q General, you show an amazing memory on some points and complete lack of memory on others. Now you insist at great length that Schreiber was not appointed to the Reich Research Council on the basis of this letter which I have just put before you. Yet you cannot tell me when he became a member of the Reich Research Council.

A I cannot give you the exact dates. I assume it was in the year 1943. I only know that one day when he was in Berlin he came to my room and told me that he received that request. I assume that my Chief of Staff, who will appear here as a witness, who had more limited sphere of work to do, could tell you a little more about this subject and probably give you more exact dates. I cannot do that.

Q And this letter does not indicate to you that the army had complete control over the resignation of its army officers in the Reich Research Council?

A In the first letter it says --- from the further remark "branches" I have to propose It says I have to I believe that some request was made -- that somebody made a request; then there is a man mentioned as coming from a technical high school. I can only imagine that there was some sort of a request and that this was the reply with reference to those officers that are mentioned here.

Q Let us pass on, General. Your attorney asked you whether or not you ever gained any information concerning the freezing experiments carried out by Rascher, Holzlochner and Finko. Do you deny that you ever received knowledge on that matter?

A I said no.

Q As a result of the Eastern Campaign weren't you very much interested in "Cold" problems?

A Yes.

Q Isn't that why you sent army officers to the Luftwaffe Conference in October 1942?

A Of course the interest in cold problems was of an important nature. I do not know who assigned them. From May until the end of October

I was with headquarters in the Ukraine and I believe that the chief probably telephoned me, whether or how many people we should send, and he may have made some proposal, and I think I would have told him on that occasion "Yes, I am in full agreement. Send somebody there." It is quite a matter of course that we send some of the people who know something about cold because they were interested in it.

Q Well, having sent them, you then immediately lost interest in the problem, I suppose?

A No, I did not lose interest. At some period of time somebody probably reported to me whether something particular had happened or whether there were any particular results or not, what could be exploited by us. But at that time it was not mentioned that anything in particular had occurred, nor was it said that any particular revolutionary results were achieved. At any rate, I cannot recollect anything like that to have happened. I should merely like to point out that my interests in cold problems, that is these sphere problems, that is the so-called earth-bound cold, that is, normal height or as it referred to soldiers in mountain troops. That was something that was discussed with us during various meetings, at first during 1942, something that was discussed to a great extent and very exact directives were contained in these reports of these meetings. You will find them in 1942 and you will find them in 1943. Naturally we were interested in cold problems and it is quite a matter of course that whenever we were invited by the Luftwaffe that we would send our experts there and this is something that is done everywhere, not only in the Army and in the field of medicine, but in technical fields as well.

Q Well, I thought that was probably correct, General; now I want to put it to you that Holzloehner had made a very remarkable discovery and one which I am sure came to your attention. Holzloehner and Rascher had found out that this massive warm bath was an extremely effective way of reviving persons from shock due to long exposure to cold, a treatment which had been first discovered by a Russian in the 19th century but had been forgotten somehow. Wasn't this a matter remarkable enough so that Schreiber who was at this meeting, or one of the many other army doctors who were down there, would perhaps call to your attention, after the extreme cold you had suffered in Russia the previous winter?

A I said already before that at all times we were interested in cold problems and as you say, very correctly mainly because of this terrible winter of 1941 and 1942. We already knew before that and there were regulations up to the war and perhaps during the first war, namely that people who were frozen should not be rewarmed very quickly. Even before that we included in our regulations that one should concentrate on rewarming and certain forms of rewarming were described. If we army people who knew frontal territory and Russia, were not so impressed by this warm bath, as you mentioned it, as you may think we were, it is probably for the reason that the entire Eastern Front just had no hot baths at their disposal and that plays quite a big role regarding the impression any new invention may have made on us.

Q Well, now, General, let me put it to you this way. Did you make any changes in the basic directives concerning the rewarming after shock from exposure to cold after this Luftwaffe Conference or after the conference in December 1942?

A If one would look through the reports of the meetings and the directives it is quite possible that some place, I can't tell you exactly where although I read that, something is said about warm or hot baths in regard to freezing. You yourself brought to our knowledge, through a document, that in December 1942 Holzloehner spoke about his rewarming questions during a meeting. -3030-

he held. That was reported to 300 or 400 gentlemen who transferred that information to the front and I am sure that later on new directives contained the warm bath too.

Q I am sure it did, too, General. That is the reason I asked you because I think that there is no doubt that great importance was attached to the results of this experiment in Dachau by Rascher, Holzlochner and Finke. I now want to ask if you didn't actually hear Holzlochner speak in December 1942 at the meeting of consulting physicians at the Military Medical Academy?

A I cannot recollect that and must say once more that is something that was done within the various expert branches. I am sure you will see that these expert branches dealt with these suggestions themselves.

Q Well, then, to put it to you, General, this speech by Holzlochner is reported in our Document NO 922, Prosecution exhibit 435, and it goes on you have a very short synopsis here of his report but he does give clinical observation in cases of deaths resulting from cold and I find that you made some comments at this cold session on page 51 of the original report. It reads:

"Handloser stresses the extraordinary importance of education also in combatting cold effects and appeals to all medical officers, in their capacity as leaders of the health service, to see it that through ever repeated explanations each individual is taught to observe the necessary precautionary measures."

A May I ask you where it is stated that is in reference to the lecture by Holzlochner? It seems to be within the framework of the cold problem.

Q General, I will put the German to you so that you can see for yourself. General, let us read the little summary of the speech by Holzlochner because the Tribunal does not have this document before it. It reads:

"Stabsarzt Professor Holzlochner:

"Prevention and Treatment of Freezing.
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In case of freezing in water of a temperature below 15° biological, counter-measures are practically ineffective, whether in the case of human beings or animals. Human beings succumb to reflectory rigidity,

increase of blood sugar, and acidosis, at an earlier stage and to a greater extent than animals. At a rectal temperature of below 30° under such conditions of distress at sea auricular flutter regularly sets in; at under 28° heart-failure frequently occurs in human beings. (Over-exertion due to unequal distribution of blood, increased resistance and increased viscosity). Treatment with drugs is senseless and has no effect. In the case of human-beings best results are also achieved with hot baths. The foam-suit was developed as a prophylaxis against freezing in water below 15°."

Now, General after that little summary of the talk by Holzlochner there were several other lectures on freezing problems and then at the end we have the gentlemen who made some comments on these lectures, we find among them Bramer, Dr. Hippke, the man who commissioned these experiments, and Jarisch and Buechner. Now I want to ask you if this document refreshes your recollection so that you can tell us whether or not you head this report by Holzlochner.

A Yes, after reading what I have in my hand, now it is quite possible that I listened to this lecture. At the same time, it is a proof that I have not as good memory as you assumed, because I already had this Document in my hands once before here in Nurnberg; you once gave it to me and I forgot about it.

Q Now, did Holzlochner describe clinical observations in that death resulting from cold human beings in this lecture which you heard?

A I cannot tell you that.

Q Does it not say so in your own report here?

A It says here that Holzlochner belonged to the Luftwaffe and as far as I was informed later, Holzlochner had gained large experiences from his service at the Atlantic Coast. I am sure that was something that was mentioned during his lecture. He had an emergency sea station near the Atlantic Coast and near that there was a hospital where he treated these frozen people who had been rescued from the sea. There was no cause to suspect anything special behind this.

Q Was it apparent to you that he carried out experiments on human beings?

A No.

Q Well, General, we have heard some testimony here about the talk Holzlochner gave in Nurnberg two months before this and as I recall, there was some indignation in this meeting in October, 1942, because all these gentlemen realized what had happened; are you telling me that no rumor of this seeped up from Nurnberg to Berlin in two months, so when the same man gave the same talk, you gentlemen were in complete ignorance about the fact that these experiments had been carried out on living human beings in a concentration camp?

A How far any discussions or any particular impressions were noted in Nurnberg, I cannot say. At any rate, I never heard anything about

any discussions or any decline. I could well imagine that if I would hold a lecture anywhere and if afterward I gained the impression that there was some kind of unclarification, or some one might call too much attention, and if two months later, I was holding the same lecture at another place, I would naturally change my lecture and I would draw my conclusions from what I had learned previously. I am sure that this well might have been the case here. At any rate after reading this excerpt, if a few pages are missing here and if somebody does not look at the pages exactly, he must assume that the man noted down here as Handloser spoke immediately after the lecture of Holzlochner. I believe that the report of the meeting itself will show you that between the lecture of Holzlochner and the discussion, there were a few other lectures and you will have to admit that considering the fact that we were approaching winter again, because this meeting took place in December 1942, my remarks did not refer so much to Professor Holzlochner's lecture, but it was merely a reminder that we wanted to do everything and in that way wanted to concentrate our entire interest to the front where freezing took place in order to help our soldiers. That is all it means to say.

Q I suppose the Tribunal wishes to adjourn at this point. I might say it is not the desire of the Prosecution to hamper either the Defendant Handloser or Dr. Nelte, his counsel, in the continued preparation of their case. In view of the fact that we are now adjourning for a period of four days, I would be willing to permit Dr. Nelte to confer with his client, if Dr. Nelte will state for the record that he will in no manner, shape or form discuss with his client the matters about which he has already been interrogated, or in any way coach him on subjects which may come up. I don't mean by that to bar him from discussing any of the subject, which I will interrogate him about, that is typhus or anything like that, but if he wants to discuss with Dr. Handloser the question of some witnesses, further affidavits or matters of that character, I will be willing to let him do it on the basis of the understanding that he will not in any way influence the witness.

THE PRESIDENT: The Tribunal inquires of counsel for Defendant Handloser whether he deems it important to consult with his client during these days of recess, the Tribunal stating that if he does feel that that is important, the Tribunal will consent relying upon Dr. Nelte to conform with those principles of professional ethics to which he should conform under the circumstances.

DR. NELTE: Mr. President, I thank Mr. McHaney very kindly for his suggestion and I thank you for the confidence which you place

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in me and I can assure you that I shall comply with the professional ethics of our profession and I shall only speak to my client about questions, which have nothing to do with the complex of questions that are the subject of cross-examination.

THE PRESIDENT: The counsel for Defendant Handloser may talk with his witness during the recess.

The Tribunal will be in recess until 9:30 o'clock Tuesday morning.

(The Tribunal recessed at 1652 hours.)

Official Transcript of the American Military
Tribunal in the matter of the United States
of America, against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany, on
18 February 1947, 0930-1630, Justice Beals presiding.

THE MARSHAL: Persons in the Court Room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of
America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, have you ascertained if the defendants
are all in Court?

THE MARSHAL: May it please your Honors, all defendants are present
in the Court Room.

THE PRESIDENT: The Secretary General will note for the record the
presence of all the defendants in Court.

Counsel may proceed with the cross examination of the witness.

MR. McHANEY: May it please the Court.

SIEGFRIED HANBLOSER - Resumed

CROSS EXAMINATION (Continued)

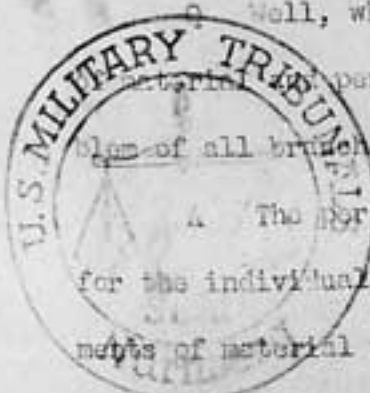
BY MR. MC HANEY:

Q General, isn't the utilization of material and personnel in
the field of medical research a common problem of all branches of the Wehr-
macht? I will repeat the question, General. Isn't the utilization of
material and personnel in the field of medical research a common problem
of all branches of the Wehrmacht, requiring a coordinated and planned
direction?

A The question never confronted me.

Q Well, whether it confronted you or not, wasn't the utilization
of material and personnel in the field of medical research a common pro-
blem of all branches of the Wehrmacht?

A The personnel was distributed in such a way as was practical
for the individual institutions and agencies; and the constant require-
ments of material which they had were settled automatically according to



the demands, which I did not have in my hands.

Q General, you'll recall that the Fushrer Decree of July 1942 vested you with jurisdiction over problems concerning the utilization of material and personnel. You remember that?

A Yes, it was the material and personnel coordination; and the reason for this was that at a central office for reasons of economy the strength of the individual branches of the Wehrmacht was to be distributed according to the size and the requirements of the individual branches.

Q Well, now, General, we understand that; but we are trying to give some content to these general words "material" and "personnel"; and I'm asking you if the utilization of material and personnel in the field of medical research wasn't a common problem, requiring coordination, which fell within your jurisdiction under the decree of July 1942.

A I can only say that in practice -- and that is the most important -- this question did not even come up in my staff and within my field of competence. Nothing was ever submitted to me with regard to the distribution of material or personnel where I would have had to make a decision because there were different difficulties in this respect and that is the most important.

Q General, you'll remember that I read part of your speech to the consulting physicians at the meeting held from 30 November to 3 December 1942.

A Yes.

Q That was Document No-922, Prosecution Exhibit 435. In that speech, General, you said in part that "it is not a question of marching separately and battling together, but marching and battling must be done in unison from the beginning in all fields. As a result, as concerns the military sector, Wehrmacht medical service, and with it the chief of the medical services of the Wehrmacht, came into being. Not only in matters of personnel and material even as far as this is possible in view of special fields and special tasks which must be considered, but also with the view to medical, scientific education and research, our path in the Wehrmacht medical service must and will be a unified one."

A Yes.

Q Aren't you saying there, General, that the coordination of scientific research was one of your jobs as chief of the medical service of the Wehrmacht?

A Yes, it was in all the fields where this was required and necessary.

Q General, did you have any interest in the treatment of wounds caused by gas of various types?

A Of course I was interested.

Q What research was done, to your knowledge, on this question?

A In the Wehrmacht we had two separate fields. They were the military field about the use of chemical warfare agents and the medical field for the treatment of injuries sustained because of such chemical agents. Accordingly, there were two separate regulations. There was one regulation which referred to the military use; and there was one regulation which referred to the treatment. These were the army regulations Number 395 and a printed regulation Number 396. That was the medical regulation. During the war it was completely reproduced on two or three occasions. I have always shown a special interest in this service regulation. In connection with this the most emphasis was placed on the question of the burning chemical warfare agents, mainly lost gas; and as far as I can remember the first World War, this was a field of special interest, not only with us but also in all countries.

Q Well, did you know of any gas experiments carried out on human beings?

A Yes. We had a laboratory, an institute, in the academy which had always had the assignment and which was also given the assignment by me to try finally to find a very practicable method of treatment; as we called it, to find a decontamination procedure; and this assignment was very zealously carried out. It finally resulted in the fact that in the course of the year 1943 we found an excellent skin decontamination procedure. Experiments were carried out on animals. Then they were carried out on voluntary officer candidates. They were medical students in our military medical academy. They were furthermore carried out on soldiers in the army chemical warfare service.

school where the training took place for the gas protection offices. That was located at Zelle.

Q Did you know of any gas experiments carried out on concentration camp inmates?

A No.

Q You testified that you know nothing about August Hirt's lost experiments? Is that correct?

A No, I did not know anything about them.

Q. You probably remember Herr Brandt and I discussing the experiments of Bickenbach which Brandt described as being carried out on animals, phosgene experiments, I think? Do you know anything about the experiments of Bickenbach?

A. No.

Q. Did you have an officer by the name of Wirth, W-i-r-t-h, working on gas problems in the Army Medical Inspectorate?

A. I cannot remember the name Wirth at all.

Q. Why I thought you were calling Wirth here to testify in your behalf?

A. I have not had Wirth called here.

Q. The name is Wirth.

A. Yes, Wirth. I have not had Wirth called here.

Q. And you don't know him?

A. Of course I know him. I have known him for years. He was a specialist in the Military Medical Academy.

Q. That is what I am trying to get at. Will you tell us what Wirth was and what he did?

A. Wirth was a student of Fluri and Wirth was the successor of Munsch who had worked on chemical warfare agents for many years and who had written books which can be found in any book store about chemical warfare agency. Wirth was the head of the Pharmacological Institute Department in the Military Medical Academy in whose field he dealt. Among other things with the service regulation No 396 which has been mentioned before. He had been assigned by my predecessor, Dr. Waldmann, to improve the decontamination drugs and during the entire time which I held office I have kept on working on this assignment.

Q. Well, in your opinion, Wirth would probably be informed on all gas research in Germany, wouldn't he?

A. I have not said with all gas research in Germany but I said that he was head of the Institute at Berlin and that he was special consultant in the field, that he was special consultant for the Wehrmacht, or the Army, in the field of chemical warfare agents.

Q. Well, he was your foremost authority on gas problems, was he not?

A. I would not call him the first authority but it rather is my opinion that the first authority would be his teacher, the well known Professor Fluri.

Q. What is Wirth's first name, do you know?

A. No. I assume that his first name begins with "W". I think on one occasion I read W. Wirth, but I am not sure.

Q. Did you know if Wirth ever worked with Bickenbach?

A. No, I cannot tell you that.

Q. Wirth is the man who recommended to Karl Brandt experiments for the decontamination of water poisoned with lost, isn't he?

A. I have read that here for the first time in the document which you have presented here.

Q. That was in Document NO-154, Prosecution Exhibit 446, for identification. You will remember that document contained the paragraph which read as follows: "The third series of experiments were carried out with the agent of the lost group, the asphyxiating gas lost, in accordance with suggestion made by Oberarzt Dr. Wirth at the conference 4 December 1944 with Reich Commissioner Dr. Brandt." These experiments were carried out on concentration camp inmates, weren't they General?

A. I cannot give you any information at all about that. I do not know anything about the session, which is mentioned in the document, nor can I tell you the reasons for it.

Q. Does it strike you as a little strange that one of the officers in the Army Medical Inspectorate would be recommending experiments on concentration camp inmates unless he knew that that practice was approved by his superiors?

A. I cannot judge if Professor Wirth made this suggestion that such experiments be carried out on concentration camp persons. I don't know anything about that.

Q. I was just asking you if you wouldn't find it strange that an

Army officer would suggest or participate in experiments on concentration camp inmates unless he knew that his superiors had no objection to it. Wouldn't you find it strange if he did that?

A. Professor Wirth could not have believed that I would agree to this because we have never discussed this question at any time.

Q. Did you know Dohmen?

A. I know Dohmen very slightly. I can remember him because in one of our meetings he gave a very good lecture about epidemic jaundice. I can remember that on the occasion of some meeting which I attended when I welcomed all the people attending. I asked one of them, "where are you working and who are you?" And Gutzeit told me "That is Stabsarzt Dohmen." I did not have any personal contact with Dohmen. I can only remember him because he gave an excellent lecture about the jaundice and about the little incident with Gutzeit.

Q. As I recall you testified that you knew nothing about Dohmen's experiments in Sachsenhausen on concentration camp inmates, is that correct?

A. Yes.

Q. Did you call the Breslau conference on jaundice in 1944?

A. When I opened the conference in 1944 I stated, and that is contained in my opening address, that I had given orders that all German hepatitis scientists, regardless if working in the Wehrmacht or civilian center, to hold a meeting in the near future in order to give them the opportunity to exchange their experiences and, above all, to compare the cultures which they had discovered, to compare them and to test them.

Q. Did you attend the Breslau conference?

A. Yes.

Q. Didn't you know of the collaboration of Hagen and Dohmen in Strassburg?

A. I did not know anything about that. I knew they worked together in this field. I only knew one time about it - that was Schreiber presiding over the meeting. I know that in the course of the meeting he had the very

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fortunate idea to suggest that various working groups should be formed so that at least these working groups could exchange their experiences. I heard here from Gutzeit, from his testimony, that as far as I can remember that the ring also included Gutzeit and Dohmen and also Hagen. I know that especially between Hagen and Dohmen difficulties existed, probably also in the conference of the German Society for Internal Medicine October 1943 in Vienna, it was not the Military conference. For this reason it was without any doubt a success on the part of Schreiberas if he succeeded by means of this working group procedure to remove these difficulties that existed.

Q Do you know whether Haagen and Dohmen conducted experiments on human beings at Strasbourg?

A No, I do not know anything about it.

Q Well, you talked to Haagen at the meeting at Breslau in 1944, didn't you?

A I have not understood your question.

Q Did you talk to Haagen yourself at the meeting in Breslau in 1944?

A I do not believe that I have spoken with Haagen at Breslau. I may have welcomed him just like all the other people there, but I'm not quite certain of that either.

Q Didn't you receive any reports on jaundice research?

A I did receive reports about jaundice from my own consultants but not in excess of that.

Q Did you receive none from Haagen?

A No.

Q Well, Dohmen was one of your subordinates, he was attached to the Military Medical Academy. Didn't you ever get a report from Dohmen?

A I have already previously stated that Dohmen was one of fifty, sixty or seventy medical officers of the scientific group, and I have not received any report from Dohmen because Dohmen was, first of all, subordinated to the chief of the medical scientific group and then to the head of the Academy and whenever reports were submitted then they first of all went either to the consultant of the medical inspectorate or the medical inspector, (this was Gutzeit) or they went to my scientific department in the medical inspectorate, without my being directly informed about it. Gutzeit himself has repeatedly personally reported to me on a large scale about the epidemic jaundice. Of course, that was his natural duty because the problem played a major part. However, your question if I had received any reports from Dohmen I must answer in the negative.

Q Do you know of any experiments on human beings with jaundice?

A No.

Q Well, General, in view of the testimony of Gutzeit that jaundice was a medical problem of major proportions, and in further view of his testimony

it was not a serious disease, how do you explain the fact that no experiments were carried out on human beings to determine whether in fact you had isolated a jaundice virus?

A. I can only explain this through the fact that research was still under way and that at the Breslau Conference, with the utmost variety of scientific present, one of the scientists still disputed with the other if this was the cause at all. I can tell you further that I did not even know anything about the fact, that I was never told, that Gutzeit had carried out an experiment on himself. I can explain the fact in the way that we had not yet succeeded in finding the virus. There were only assumptions and some of the scientists believed they had found it. However, the fact had not yet been established.

Q. Well, but General, as early as the middle of 1943 Grawitz was stating that it was necessary to have animal to man virus experiments. Now, in view of the importance of the problem how is it that no experiments were carried on on human beings?

A. I cannot tell you anything about it. However, I believe that Grawitz opinion was not decisive for me because, without any doubt, he had handled some problems which were not ripe for discussion yet, while we, in the Wehrmacht, maintained the point of view that one should be very careful in all these cases.

Q. General, you have testified that you attended the meeting of the consulting physicians at the Military Medical Academy in May, 1943. Is that right?

A. Yes.

Q. You have also testified that you heard the report by Goldhardt and Fischer at the meeting. Is that right?

A. I have stated that it can be assumed that I attended this conference.

Q. I asked you if you heard the report by Goldhardt and Fischer at this meeting?

A. I assume so, yes.

Q. Well, do you remember whether you heard it? Did it make any impression on you?

A. No, I cannot remember that at all. I must tell you that I have not

shown any special interest in these reports or that they did not make any special impression because, otherwise, I would be able to remember them.

Q Well, wasn't it made clear in this report that they had performed experiments on concentration camp inmates?

A In my opinion, as far as I know, it has been stated here that prisoners who had been condemned to die and those who had been pardoned were concerned.

Q Well, General, you saw these women, these Polish women who came here to testify. You saw how their legs were mutilated. Will you tell the Tribunal what you think about sulfanamide experiments at Ravensbrueck? Do you think they were all right?

A I can only repeat again that in the lecture certainly the subject of concentration camp prisoners was not concerned. It was not discussed because one or the other of the words would have remained in my memory. I am quite certain that no female prisoners were discussed. I have seen the Polish women here and I have also seen the scars. That is the subsequent result. However I cannot state exactly what was done to them and the explanation was not given by Dr. Alexander here. He has only given a diagnosis and if I were to tell you what I think about these experiments then I must ask you that I can postpone this statement until I have heard the people who carried out the experiments and who will describe how they carried them out. I do not know anything about it because I cannot remember the lecture.

Q Was it not clear even from the summary of this lecture in your report of this meeting that the experimental subjects had been artificially infected?

A Then I would have to read them over once more.

Q Well, let's do that. I'll have to read this to you, General, as I seem to have the German here. This is Document NO. 923, Prosecution Exhibit 436. After Gebhardt and Fischer gave their report they had a little discussion and a man by the name of Schreus had the following to say: "As far as I perceived, Gebhardt's and Fischer's experiments do not qualify for an immediate comparison with animal experiments as performed by myself and others because ligation of vessels eliminated larger muscular parts and prevented the influ

of para-orally administered sulfanilamide." This fellow has already pointed out that they tied off some blood vessels in Gebhardt's and Fischer's experiments, hasn't he?

A Larger muscular parts were included in this or were removed.

Q He goes on to say: "The range of locally administered sulfanilamide, especially of non-soluble ones, must not be over-estimated because the conditions of diffusion are not sufficient due to poor solubility. Especially morphinal has to be considered in this respect." Then he says: "The poor takes of infections with gas gangrene, which is stressed by the lecturer, coincides completely with the findings in animal experiments." Now, General, isn't he saying very clearly that they artificially infected these human beings with gas gangrene?

A. That cannot be deducted from this text. They only speak about the bad results of the gangrene infection and anybody that doesn't exactly know what has happened and who knows that the infection was to have been artificially caused, cannot deduct this, in my opinion. It only states here about the bad results of gangrene infection and I as a known surgeon, and not a bacteriologist, could not have reached any conclusions in that sense or could have deducted anything as you have just suggested.

Q. General, my English translation reads "the poor takes of infections with gas gangrene." I can only conclude one thing by that and that is that the lecturer was pointing out that they had trouble getting gas gangrene infection they had trouble making them "take." Now what other conclusion can be drawn?

A. Well I cannot draw that conclusion from it because that is a discussion between two people and the person refers to his experiments and I do not know to what extent this comparison is correct. I am not enough of a specialist in order to judge that. I can only say that if I were to read this report today, after everything I have heard, and if I were to read it over without knowing anything in particular about the subject, then it certainly would not draw my particular attention.

Q. All right, General. I take it you made no investigation of this experiment after this report since it made no impression on you. Is that right?

A. The important factor in this case is, because after all one must consider the circumstances, that although 300 to 400 people participated and all of them were consulting physicians, that is to say all of them were specialists that at no time during the lecture or after the lecture or during the intervals or even later on, nobody even discussed this question orally or in writing or through some other means. Nobody suggested that something did not seem to be in order here. Therefore I did not have any cause to make any special investigation with regard to the subject.

Q. But General, one can draw two conclusions from your statement. One, which you have just drawn, which you justify your inaction by. The other is that everybody there just had no reason to object to these experiments; they knew that it was an accepted policy of your organization to experiment on concentration camp inmates so they said nothing. You can also draw that conclusion, can't you?

A I must repeat once more that I doubt that the words "concentration camp" or "concentration camp prisoners" were mentioned at all.

Q Very well. I think if we had proved here that there was an objection at this very lecture that you would conveniently have been outside the room at that time. Now I put to you that at this same meeting in May 1943 there was an objection by our defendant Raso to Ding's report on Typhus experiments and our man Schreiber was chairman of the meeting at which Ding spoke. You say you were not there but you also have testified on this stand that you heard nothing about that objection.

A I am not only I but it has already repeatedly been stated here and it has also been seen by the documents which were presented here, that this was a conference of 12 different specialist groups, and that the individual specialist groups had individual meetings and that it would have been completely impossible to be in 12 different places at the same time. I have stated under oath on various occasions here that I did not attend the conference of the Hygienist Group where Ding was present. Even Schreiber has not told me anything about Raso's objection which has been mentioned here. Ebhardt's lecture took place in the large auditorium after I had given the opening speech and after the conference had been opened within the framework of surgery. The bacteriological hygienist specialists hold a conference by themselves at some other place. I can only repeat once more that I was not present.

Q General, I am not present downstairs in the Milch Trial but I think if anything unusual happened down there and most particularly if anybody was killed down there I think not only that I would hear about it up here but I think even you would, and I am asking you if it isn't a bit strange that when an important man like Raso gets up in a meeting of an institution of which you were the commander, and objects to what he terms to be murder, I ask you, isn't it passing strange that Schreiber or someone else did not say anything to you about it?

A It may seem very strange to you but I can only repeat the fact once more that nobody told me what the reasons were for the people that attended to all the object and I cannot state anything with regard to Raso because I did not see him.

Q Were any military medical measures taken on the basis of Gebhardt's sulfonamide experiments?

A Yes, a measure was taken; the conclusions which were reached in the end were changed into directives just as they are stated, as final conclusions which were approved by all the medical men who attended.

Q Well, in other words, as a result of the experiments of Gebhardt, new medical instructions were issued, is that right?

A The phrase "new instructions" goes perhaps too far. Perhaps there were about 10 lectures and the results of the subsequent discussions were summarized and a part of them referred to the results achieved by Gebhardt. That was the actual reason for the conference so that the people should know what the results were with regard to the conference of all the specialists. That was not always something positive, but very frequently in other problems the question remained open, that a large number of physicians outside the country were to be given clarity that the leaders of the medical service and the consulting physicians were constantly and at all times trying to find a solution to all the questions which had still remained open, in order to help all the wounded.

Q General, that makes what we are talking about the same thing. Did the Army Medical Inspectorate issue instructions on pieces of paper to the physicians working in the field stating that in case cases of shock due to prolonged exposure to cold you should treat the patient in the following manner and then outline the manner of treatment? Did the Army Medical Inspectorate issue that kind of instructions or not?

A Yes. First of all they are the instructions and secondly it is also a part of the reports of the conference of the consulting physicians.

Q I asked you if these instructions concerning the treatment of wound infections were changed or influenced by the talk of Gebhardt and Fischer. Yes or No, that is all we need. I don't care how they were changed, just a yes or no--were they changed or weren't they changed?

A That was no change. That was an addition to the previous results. This result was also added--those results which had been achieved by the discussions.

Q Well, precisely what was added to the instructions which you gave to field medical officers on treating infections of wounds?

A The instructions begin with the following, with a short review. There are about 1, 2, 3, 4, 6-1/2 lines here about the experiments which were carried out by Gebhardt and then from the next lecture are the results of sulfonamides, then application, then the clinical results, and then it states the following rules are to be added for the praxis. Therefore what has been added here now, that states that the development of an inflammation caused by bacterial causes and the internal and external cannot be prevented by the internal and external application of sulfonamides. Then it states about the inflammation the important part of this that also in this case of warning had to be issued to the surgeons outside that the experiments had shown that they could not solely depend on these sulfonamides but that they would remain and maintain their surgical treatment. This was a very important point that only in some cases they should add sulfonamides.

Q. General, would your organization, your staff, make such additions to medical instructions without investigating precisely what had been done during the course of experiments upon which these new instructions were based? That's a pretty important problem, isn't it?

A. That would not be the task of my staff, but it would be the task of the specialists, and the reason for this conference and everything that has been newly discovered since 1943 was that several dozen leading scientists could read and that they could consult about these instructions which were issued here. Neither I nor normally people of my staff participated during this conference, but the procedure was that on the very last day before this meeting was disbanded, the 12 or 14 different specialist groups announced the text of these instructions. And in this case it was to be asked once more if there was any further discussion, and if not, then these instructions were accepted. They were printed as quickly or as slowly as this could be done, and then they were sent to the front.

Q. Well then, General, I take it that these specialists groups investigated the conditions of the experiments which were reported on with great care; is that right?

A. Yes. Naturally you will have considered in that respect under what medical forms; that is, in this case bacteriological forms or surgical forms; these experiments had been carried out; that is to say, how the results were achieved can be seen by the case histories and the person who has carried them out will answer the questions here which were put to him, because after all, a number of physicians are not always of the same opinion.

Then various questions were asked and they were discussed and we also have instructions with various things that were not added and where people were arguing what procedure should be followed, and that, as a result of the discussions we saw a big advantage.

Q. Hestock was a member of the surgical group, wasn't he? He was primarily concerned with this sulfanilamide problem?

A. All of us were interested in the sulfonamide experiments -- probl

Q. Well, was he a member of this group of specialists which investi

very carefully these reports because they were going to issue medical instructions based on these reports, and they wanted to be sure that their instructions were right and that the reports were correct; and now I am asking you was Rostock a member of this specialist group?

A. Yes.

Q. Do you remember Document NO-257, Prosecution Exhibit 283, which is affidavit of Dr. Ding telling about his meeting with Krugowsky and Schreiber at the Military Medical Academy at the end of 1942 on gas burn edema?

A. No.

Q. What is gas edema?

A. Gas edema is a disease which is caused by wounds and injuries, whenever a certain type of virus, and in this case they are bacteria, are introduced into the wound. The word edema can be translated into German, with a certain swelling, since this disease is characterized by a swelling, and at the same time by a formation of gas which is caused by these bacteria. Then it is called gas burn or gas edema. It is one of the most feared complications which we can find in the field after injuries and the mortality rate of such people is terrifyingly high. Furthermore, this disease is very often characterized by the fact that the surgeon is forced, in order to try to save the life of the afflicted person, he has to carry out very large amputations, or perhaps he has to amputate a limb from the joint of the hip of the shoulder.

Q. That will be sufficient, I think, General. Now, did you have a gas edema serum in Germany?

A. Yes.

Q. Did it ever come to your attention that soldiers treated with gas edema serum died suddenly after apparent recuperation?

A. Yes. As far as I know this came from the fields of Professor Kil. If any success was to be achieved at all with this gas serum it had to be given repeatedly in very large doses, and somebody finally had the idea that these fatalities which could not be properly explained might perhaps be traced back to the phenol components which were contained in the serum.

Q. And this gas odema was the topic of one of your conferences at the Military Medical Academy, was it not? Didn't you have a report by consulting physicians on this topic at one of your meetings?

A. My predecessor directed the first conference during the past war. That was in 1940. It was held by Dr. Waldmann after the campaign in Poland had been completed and already one of the main lectures was given about the gas problem. Ever since that time the importance of this problem has always been discussed with regard to gas odema.

Q. Well, let's go back to this Ding affidavit, Document NO-257, Prosecution Exhibit 283. You have described this gas odema problem just about the same way that Dr. Ding did. It reads: "At the end of 1942 I took part at a conference in the Military Doctors' Academy in Berlin. The topic of discussion was the fatality of gas burn serum on wounded. Attendants, General Dr. Professor Schreiber, SS Brigadier General Professor Krugowsky, a medical officer who was unknown to me who was a surgeon, myself as section leader of the Central Institution in Berlin for Fighting Epidemics. Milien" when you have already mentioned... "and Krugowsky gave reports of soldiers who had received gas odema serum in high quantities, up to 1500 cubic centimeters, and hours afterwards, after complete recuperation died suddenly without any visible reason. Krugowsky suspected that the phenol content brought about the fatal result of the consolidation of the separate injects. In the presence of the other gentlemen, Krugowsky commanded me to take part in euthanasia with phenol in a concentration camp and to describe the result in detail, since neither I nor Krugowsky ever saw a case of death through phenol."

Q. Did Schreiber ever tell you anything about that?

A. No.

Q. Schreiber didn't tell you very much about anything, did he?

A. Schreiber reported very much to me, and I have worked together with him for many years.

Q. How does it happen he never told you about these little disagreements, incidents of killing of concentration camp inmates by Dr. Ding?

A. I do not know the reasons which Schreiber had for doing that. I also do not know to what extent Schreiber was informed.

Q. Did you know of Keitel's order that the Wehrmacht was to have nothing to do with experiments on human beings?

A. In this form, I do not know anything about it in the form in which it has been stated in some place here. I can only say that this was an old point of view of the Wehrmacht and that perhaps Keitel brought this up once again at some place but I do not know it in the connection in which it has been mentioned here.

Q. What do you mean that's an old view of the Wehrmacht? What's an old view of the Wehrmacht?

A. I have understood you to say that Keitel had stated that no experiments should be carried out on human beings on behalf of the Wehrmacht.

Q. That statement is contained in Document NO-1309, Prosecution Exhibit 326, which is a memorandum on a meeting between Professor Kluge and Professor Blome concerning biological warfare and proposed experiments on human beings, dated 23 February 1944. "Blome had reported that he had until now made no experiments in the field of human medicine. These, however, are necessary and he plans to make them. A new institute under his control is being built near Posen in which biological weapons are to be studied and tested. Field Marshal Keitel has given the permission to build. Reichsfuehrer SS and Generalarzt Professor Brandt have assured him of vast support. By request of Field Marshal Keitel the armed forces are not to have a responsible share in the experiments since experiments will also be conducted on human beings." That's what Keitel had to say.

A. Well, that would be a general disapproval. That is quite possible, but I have never discussed it with Keitel. Therefore, I cannot give you any judgment to that effect.

Q. Well, how do you explain the fact that Keitel, who was not a medical man, was aware of experimentation on human beings while you were not, and that he had issued an order that the Wehrmacht under his control were not to participate in them? How do you explain that he knew about these experiments and you didn't?

A. I can explain this in this way that Keitel was in the Fuehrer's headquarters, that he has heard some reports or that he heard about some reports which did not come to my knowledge--I was not in the Fuehrer's headquarters--that the circle in the Fuehrer's headquarters was also very limited and probably always varied, and quite a few things may have been discussed at the Fuehrer's headquarters which did not come to the knowledge of other people.

I have not discussed experiments on human beings with regard--inside the Wehrmacht or outside the Wehrmacht with Keitel, and, therefore, in connection with--I cannot have any idea with anything like that in connection with so.

Q. If Keitel disapproved of this and issued an order that the Wehrmacht was not to participate in them, who would get the order? Wouldn't you get a copy as chief physician of the Medical Services of the Wehrmacht?

A. No. I did not receive any.

Q. What was your connection with the Euthanasia Committee?

A. There was no connection at all.

Q. weren't you in charge, as a matter of fact, of the study of human bacteriology in connection with biological warfare?

A. That was not my assignment, but it was the assignment of a physician by the name of Dr. Elveback who had been ordered to study the medical literature of the foreign countries to the effect on what had been achieved in that field, and who further had to give me some advice to the command of the Army as specialist in this field, and he also had to act as a

specialist when any questions were addressed to him.

Q. Who was in charge of animal bacteriology?

A. I cannot tell you that. I only know that at the meeting with Elmo in 1943 the General Veterinary, Dr. Bräuer, was present. However, I do not know if he was only there as Deputy Office Inspector or if he was only there in his specialist field. I do not know. I have never discussed the question with him.

Q. Didn't you know that Elmo had suggested biological warfare experiments on human beings?

A. No.

Q. Let us read a paragraph out of Document NS-1306. That is Prosecution Exhibit 325. This is a report of Klieve dated 25 September 1943. It says: "Since it is not known under what conditions inhaled aerosol or dispersed droplets of certain pathogenic germs cause disease in man, Professor Elmo has suggested experiments on human beings. His orientation in the laboratories of the Academy of Military Medicine was rejected."

Q. How could he reject these experiments in the laboratories of the Academy of Military Medicine unless it was you or Schroeder?

A. Well, that may have been Klieve, for example. Klieve may have said that is completely out of the question for us, and I could imagine that there were laboratories without any clinical contacts at all. All this has been put together, and actually they are only laboratories which work on the relations and which only concern themselves with experiments on animals.

Q. Do you deny any knowledge that experiments with biological warfare were carried out on human beings?

A. No, I do not know anything about this; but, Mr. Prosecutor, I would like to put one request to you. How shall I use the word "deny"?--it was previously described as "deny"--in German when we say "deny" it means dispute, to argue, but if the word "deny" is used in that case, in German with us it is known to state the untruth, as I am under oath here, and I certainly do not have the intention of stating any untruth, and perhaps I will please tell the interpreter so she will interpret that with the appropriate German

work for it which is "abstreiten" and not to deny.

Q Very well, General, what institutions were producing yellow fever vaccines in Germany?

A I assume that the Behring Works concerned themselves with the production. For us it was the central agency for all these matters. In excess of that I have also heard here that they had received orders. I cannot say that I did not participate in these things before, but I did not know anything about them in detail. Also a third agency was mentioned which at the moment I cannot remember either. Furthermore, the yellow fever question in Germany was only discussed very temporarily and it only played a part as long as the campaign in Africa was acute.

Q Now, General, we have the Behring Works at Marburg. Didn't the Robert Koch Institute also produce yellow fever vaccines?

A That may be quite possible.

Q And the Typhus and Virus Institute of the RKH at Grosse?

A Yes. I have read that here, and that is also quite possible.

Q And you admit that you may have commissioned them to manufacture this vaccine?

A I admit that this possibility is quite feasible.

Q Was a live virus used in this vaccine?

A Yes. It is usually described as a live virus. I also want to state that with the layman that causes the impression that this was a very dangerous matter, but there has never been a virus which is less dangerous than the one which we are just discussing. I can really put up with the fire with regard to the fact that no human being can suffer any damage from this vaccine.

Q Well, what was the reason for desiring to test this vaccine?

A I really cannot tell you that because as far as I was informed, it was a vaccine which had already been tested and which was really dependable, and I was very much surprised to see that there was a subsequent orientation with it. I cannot explain this myself.

Q Well, you recall that it says in the Ding Diary, which is Document

NO-265, Prosecution Exhibit 287, that since the live virus is being handled for safety's sake, from each vaccine charge a test is to be performed on five persons. You state you don't understand that?

A No. I cannot possibly understand it. However, I want to state here that I am neither a serologist or a bacteriologist. I can only state that as far as my knowledge is concerned, I cannot understand the paragraph which is contained in the Ding Diary.

Q And you never heard anything about these experiments at Duchowald with these yellow fever vaccines?

A No.

Q Dr. Schmidt didn't tell you?

A No.

Q And who is Dr. Schmidt?

A Dr. Schmidt was the hygienist in the Army Medical Inspectorate. He went through the French campaign with the Army Medical Inspectorate in 1942 when I occupied my office in the Army Medical Inspectorate at Berlin. He worked there under me until August, 1944.

Q He never reported anything to you about this?

A No.

Q Is he the same Schmidt you are calling here to testify?

A Yes.

THE PRESIDENT: The Court will be in recess for a few moments.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

BY MR. McHANEY:

Q. General, when was the typhus and virus institute of the OKH at Lemberg activated?

A. I cannot tell you that exactly. I only know that in the year of 1941, I think it was in June, I attended the institute during an inspection in Lemberg and that, at that time, it was fully activated.

Q. Now, General, I listened to your testimony concerning typhus and the possibility of your having been present at a conference on typhus on 29 December 1941, and I'm a bit confused by that testimony. Do you deny having been present at a conference with Conti, Reiter, Gildemeister, Hrugowsky or any one of them on 29 December 1941 concerning typhus vaccines and the testing thereof?

A. Already in Oerursel in September, 1945, I said that regarding the date, day, time and place and participants of such a conference I knew nothing because of the length of time which preceded it. I know nothing clearly in my recollection. I only know that at some time when typhus started to expand with us, that is the winter of 1941 or 1942, I drew attention to the civilian sector, and I think it was Conti, of the large losses of material regarding eggs and I remember the number of fifty or more per cent in that connection. At that time I already stated in Oerursel at the time when I didn't know everything that I know now - I didn't know what it was really all about - that I had nothing to do with a conference in any way in connection with concentration camps or the use of inmates or the use of any methods which deviated from the ones employed so far, and I can only repeat that here.

Q. Well, General, since you mentioned this statement at Oerursel let's put it before the Tribunal. This is Document NO. 732 which we offer as Prosecution Exhibit 451 for identification. General, this is a copy of that statement you made in Oerursel, isn't it?

A. Yes, in Oerursel I made many such statements.

Q. Let's turn to paragraph 4 of this statement where it says:

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"According to the statement of the interrogating American officer, I was supposed to have attended a meeting in 1941, at which Reiter, Gritti and Krugowsky were present, and to have suggested the carrying out of typhus research on human beings. I cannot recollect the date, place and participants, nor the course of such a meeting because of the many years that have passed and the numerous incidents that have occurred."

Paragraph 5:

"As far as the typhus problem is concerned, it may have been the following: Production of the known, very effective typhus vaccine, according to the method of Prof. Weigel of Lemberg, which was derived from lice, dragged far behind the actual demands, despite an increase. Typhus vaccine was also produced in the Robert Koch Institute, through cultures in chicken eggs; its dependable efficiency, however, was not sufficiently proved. To provide adequate protection for the combat areas, as well as for the zone of the interior against typhus, it became necessary to clarify the value of this vaccine at the earliest moment. It is therefore quite possible that in the course of a conference Dr. Krugowsky might have been assigned to carry on studies in parallel tests, about dosage, compatibility and efficiency of this typhus vaccine in the human being.

"The purpose was to arrive at a final conclusion whether the vaccine produced by the Robert Koch Institute was adequately efficient and could be used in the Wehrmacht and in typhus areas in the Eastern Front with a considerable prospect of success."

Now, General, you can't deny that you participated in such a meeting on 29 December 1941, can you? There is that possibility, isn't there?

A. I said that I can say nothing about the time it took place and I have already testified here that, naturally, conferences took place about the typhus and vaccine question. When the interrogator at Oberursel asked me directly whether it couldn't be possible that I had spoken to Krugowsky and that such a conference had taken place I told him that I was quite sure that many such conferences took place. That I was concerned

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with - I spoke about it before - was the testing of the chicken egg vaccine on a sufficient number of persons in a certain vicinity; that is, within an area where spotted typhus had already occurred or there was an imminent danger existing.

Q Now, General, let's go back to the issue of interjecting disputed matters like concentration camps and the method of testing, etc. I am now trying to establish whether this meeting took place and I understand that your attorney is vigorously attacking this entry in the diary; also Dr. Bragovsky's attorney is asserting that this is a forgery. I am very much interested in your assertion that there is a possibility that you attended such a meeting. With this, were you working on this problem when did you first meet Dr. Bragovsky?

A I do not know how to understand you when you ask me where I worked. It is the first time I heard of the question the minute the first references of typhus became known and this question was with us until we came to the conclusion that in addition to the knowledge of production of typhus we would have to resort to diagnosis with the most certain methods available. You have to know that from the moment the reports came from the front we were concerned with this question. It did not stop at all and I am quite sure that the front physicians as well as the back physicians had many conferences of that nature.

Q When did you first meet Dr. Bragovsky?

A In my opinion I met him at the beginning of the Eastern Campaign. For the first time I heard the name Dr. Bragovsky mentioned by Schreiber, who drew my attention to the fact that Dr. Bragovsky was a very well educated physician, that he had much practical knowledge and that he would have to be concerned with that problem anyway in order to care for the troops who were afflicted at the front, and that he had been put into contact with the Wehrmacht. I assume that this occurred during the summer of 1941--yes, I think he was the summer of 1941.

Q Well, on your recollection the occasion of your first con-

ference was concerned with vaccinations of various types, some of which I have just mentioned here. I am just suggesting to you that maybe Bragowsky left this conference and went to Buchenwald and carried out this mass vaccination test that is entered here on the 23rd of March 1943. Is that a possibility too?

A I can only say that the problem was so complicated that one could not possibly create a precise date of the spring of 1943 on something that played a part during every conference. This was born of the principle not to give too many vaccinations to the soldier but say foreign countries and combine a number of vaccines, 2, 3, or 4 in one injection. There is nothing new--foreign countries had practiced that for some time, whereas in Germany there were still some inhibitions about that procedure. This was a point which was quite openly discussed during scientific sessions, conferences, and even smaller discussions. Perhaps I should add that I am not quite sure when this combination of vaccinations was introduced but it had already played a part before 1943.

Q But what was the subject of your conference at which Bragowsky was in attendance that you have mentioned?

A I cannot tell you that. I must repeat that so many conferences took place in the front and at home about various things that it is quite impossible for me that I could precisely tell you the date of any one such conference if I did not have some material, which would be a printed report, which would refresh my memory as to the exact date.

Q What other meeting do you remember that you had with Bragowsky?

A I have just told you these were general meetings. I recall that he attended the general military conference in the spring of 1943, which was intended to set up certain dates on

to establish "geographically exact" in that territory of Italy, the Balkans and Russia malaria prophylactics were to be carried out. I think he attended there; if not he himself, a representative of his must have been there.

Q And there is a possibility that you were at a meeting with him in December 1942 concerning this typhus problem, isn't there?

A I can neither say yes nor can I say no. At that time of the year we had serious concerns regarding typhus.

Q What was your association with Reiter in connection with typhus?

A None at all.

Q Did you ever have any contact with Reiter?

A I had contacts with Reiter because he was a member of the Scientific Senate and I have already told you that. This Senate met only on very rare occasions during the war and not at all after 1942. Other than I have very rarely met Reiter. I had no conference with Reiter except for the Scientific Senate. At least I don't recall it as can be seen.

Q Well, what was Reiter's principal job?

A Reiter was President of the Reich Public Health Office. I think that such matters which required actual settlement in Germany, for instance in the field of drugs, in the field of health welfare, in the field of directives regarding the control of such medicines or other drugs--these and all matters that came within the Reich Public Health Office. Before I said before, my contacts with that office were so rare that I could not give you any details concerning their activities.

Q Well, the Reich Public Health Office, was that part of the Ministry of the Interior?

A Only prior to the fall of 1935. The Reich Public

Health Office came within the sphere of the Reich Ministry of Interior. I remember that time as not an exactly successful experience. How far the Reich Public Health Office acted independently and how far it was dependent on the Ministry of the Interior, I can't tell you.

Q. Well he was probably superior to that as Secretary of State for Health, wasn't he?

1. Yes, to the Reich Minister of the Interior, and since this was a medical agency, the Reich Health Office and, I should think, that he was authorized to the entire State Secretary of the Minister of the Interior.

2. How often will you have contact with Oil & Gas sectors?

1 For the last time I met Willmeister during a conference where my successor, the Army Medical Inspector, was present too, in November 1944. At that time we had a conference about the necessity of doing a job in regard to actual occurrences of influenza which threatened to attack us during that coming winter and if I must decide, Dr. Willmeister was present during that conference. Whether he attended the malaria conference I cannot tell you for certain. It is possible, however. Whether he attended the venereal conference, that is something I should think was probable. Whether I had any discussions with him at any time during that winter regarding a spotted fever vaccination or vaccine can be seen from the fact that I remember those arguments of his. Otherwise I had no contact at all with Willmeister.

Q Well but you do have contacts with Cal Grodzister on
Myxus vaccines, didn't you?

1. Certainly there was some discussion regarding the typhus vaccine and other certain vaccines from the Robert Koch Institute with reference to children, etc.

Q. Now, Gillmeister was President of the Robert Koch Institute, wasn't he?

A. Yes, Gillmeister was President of the Robert Koch Institute.

Q. And the Robert Koch Institute was subordinated to the Ministry of Interior, was it not?

A. Yes, I believe to know that when it became a Reich institute it must have been subordinated to the Reich Ministry of the Interior. I don't know what the situation was before that with certainty. I always imagined that the Robert Koch Institute was the agency of which the Reich Ministry of the Interior made use when it needed any counsel on any matter. I think that is how I always understood it.

Q. And as a practical matter Genti was the man in charge of the Robert Koch Institute in the Ministry of Interior?

A. Yes, I would say that with certainty when it was a Reich institution. I don't know what the situation was before that with certainty. I can tell you nothing for certain. This is merely a supposition on my part.

Q. Now, didn't you have contacts with Genti on the problem of typhus, production of typhus vaccines, the efficiency of typhus vaccines?

A. Here again I have to say that the contact with Genti was made in order to present the dangerous situation of the winter of 1941 and 1942, and when beyond that any vaccine was discussed, it could only have been a question of the yolk vaccine. I myself had heard of this vaccine. I had often discussed this vaccine with Schreier. The other vaccines which came into a prominence later and are being mentioned here were of no conception to me at that time.

Q. Now, while your memory may be hazy about whether this or that person was present at a conference on this or that date, there is no dispute, is there, that you had in fact attended a conference where the whole question of the efficiency of the egg yolk vaccine was

discussed and where it was decided that the experiments would have to be made on human beings; isn't that true?

A. Not, that is not true in this form. Never and at no time have I said that I attended a large scale conference in a large circle with those precise details. I only said at all times that we were concerned with information passed into the civilian sector. That, after that, took place in the way of conferences I don't know. But as far as conference as it contained in the Ping Ping in this form and in the decisions as they were reached there, I did not take part.

Q. Do you know under whose jurisdiction the production of typhus vaccine came?

A. That is hard to say. For instance, the production of vaccine in Krakow and Rosenberg was ordered by the Army Medical Inspector. The procedure was known. The directive originates from my predecessor and was maintained by me. To give their directives to the Robert Koch Institute or the Behring Werke I cannot say. I would assume that such institutes, such as the Institute of Geheimrat Otto in Frankfurt, are here for the purpose of concerning themselves with such production without receiving a direct order to that effect.

For instance, there is a state directive regarding testing of typhus vaccines which was only given out in the year of 1942; that is to say, until that period of time such institutions which were naturally under some sort of general control could concern themselves with such vaccine questions as they thought fit to do. That is how I look at it. As I said, only from a certain period of time vaccine control was introduced. That was 1942 and I mean typhus vaccine control.

Q. Well, who emphasized the typhus vaccine control? General, I picture that typhus was a very big problem in 1941, '42, '43. Typhus was a very critical problem. Now, I should think it is not accidental that there would have been one person or one agency

which concerned itself with the production of typhus vaccine, who saw that it was produced, and who saw that it was allocated to the proper places. Now, I get some confused picture from you about the two institutes of the OKW at Krakow and Lemberg under the jurisdiction of you in the Army. Then you know nothing about the Schriber works at Lemberg and Lemberg; you know nothing about the Robert Institute and their production, and of course, I need not say about the production at Buchenwald.

Now, didn't somebody know about these production matters? Well, you know, tell us. If you don't, say I don't know and we will go on. Was there no central agency which was charged ---

A. I can only say that we were so busy with our own affairs that if you ask me that way, who was responsible for the civilian sector I can only say Genti, for that is the reason why we had a state secretary in the Reich Ministry of the Interior, and just as we consider the Wehrmacht as a state institution where the medical inspector was competent in his field, then Genti must have been competent in the civilian sector. That is the only way I can imagine it -- no other way.

Q. General, were you relying on your institutes at Krakow and Lemberg to supply all the typhus vaccine for the Wehrmacht?

A. Now, for years --- and I only remind you of tetanus serum---

Q. I don't care anything about the tetanus serum now. You said you weren't

relying simply on those two concerns. Now, where else did you go to try to get vaccine or duction, typhus vaccine production?

A. Well, we received something from the Behring works. Probably Geheimrat Otto delivered something for the home territory as far as he produced them. It may be that the Robert Koch Institute delivered. These are the best known agencies. There were the Saechsische Serum Works. They are here in order to produce vaccines --

Q. Don't you know whether you got vaccines from them or not? You said there is a possibility. Now, you don't want this Tribunal to believe that the highest medical officer in the Wehrmacht didn't know where he was getting his vaccines, do you?

A. I just named those agencies from where the Wehrmacht may have received their vaccines - Behring Works, maybe the Robert Koch Institute - I do not say that with certainty because I don't know its extent and its capacity of production, I don't think it was too large. Then the Institute for Experimental Therapy in Frankfurt on the Main, and we received our dysentery vaccine at the Hygiene Institute of the University of Berlin which was Professor Zeiss; in addition, at the Acid Works and at the Behring Works, and other vaccines came from the Saechsische Serum Works, and I don't think I forgot anything. These were the agencies which were obliged to deliver these things to the Wehrmacht, and that, in fact, did deliver.

Q. Very well. Did you receive production reports from those concerns?

A. I didn't see them. By my office, the expert worker must have seen them or he must have made out the order and he must have carried on some correspondence in order to see whether deliveries could be made to the needed extent. These weren't my affairs. For that purpose I had my collaborators and my experts.

Q. Well now, it has taken us a rather long time to get here but the fact is that you, or at least your office, very well knew exactly what the typhus production situation was; isn't that right?

A. Yes, in the Wehrmacht sector; probably in the civilian sector too.

Q. Now, what about the allocation of typhus vaccines? Did anybody com-

trial that?

A. It was at first from Krakow - at first Oberstabsarzt Eier. This was made by him for a short time; that is, when he received certain requests from certain parts of the front he allocated them according to the need. That, however, led to difficulties and then the Army Medical Inspectorate took over and I don't think I am wrong if I say that from the period of time of September, or rather, fall 1944, I took this authority away from the Army Medical Inspectorate and transferred it to the Chief of the Wehrmacht Medical Services. That's where we received reports about production and allocation. Until that period of time, that is, from 1942 up until 1944, the Army Medical Inspectorate was in charge of that work.

Q. Well, that was you in both instances. You were the Army Medical Inspectorate from '42 up until '44, and you were also Chief of the Wehrmacht Medical Service. Now, isn't it true that you or agencies under your control had the power to control the allocation of typhus vaccine in Germany?

A. What we allocated was mostly our own produced vaccine from Krakow and Lemberg. I think we probably received reports from the other offices, namely, what can be produced or what was ready, and then a comparison was made with the need and then it was allocated according to that need.

We didn't only have to care for the front army but also for the home army. I cannot give you any figures of typhus at home but sporadically such incidents occurred and that is why vaccinations had to be made, which perhaps extended to a large proportion. I cannot tell you that.

Q. General, I don't think you answered the question. I asked you if it is not a fact that you or agencies under your control had complete authority and power over the allocation of typhus vaccines by whoever manufactured - Robert Koch Institute, Institute of the OKH at Krakow, the Behring Works, anybody else, - didn't you or one of your agencies have the power to allocate that typhus vaccine production? Yes or no.

A. No, no. You mustn't forget that we had nothing to do with the civilian sector and that the civilian sector did not only have to care for home but also for the eastern territories. But the Wehrmacht was competent

for that but the civilian sector, where they had a sufficient amount of lead health personnel in the eastern territories, in the Ukraine, in the south and in France, and that in itself excludes the possibility that the Wehrmacht was the agency which had to care or had to order anything about the entire allocation of vaccine production. That is the same as with the delousing means: the civilian sector was relied upon for eastern territories, for home country and for what we needed. I must say that the civilian sector, the question whether I had vaccine production in my hand, must be clearly denied by me.

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Q. All right, let's split it up. Did you have complete control over the allocation as between the various branches of the Wehrmacht?

A. Yes. Whoever worked on that had a list where stock and demand could be compared, and according to the size of the branch of the Wehrmacht or, mainly, according to the urgency of the demand, he allocated however he could, if it was possible, to the larger extent of the demand, if not, a little less. I think that Oberstabsarzt Schmidt could tell you more about it than I could, who was actually working in that office.

Q. General, the production and allocation of typhus vaccines as between the military and civilian sectors was a problem which fell squarely within the Fuehrer Decree of July, 1942, wasn't it?

A. I only had to care for my own needs. I had no authority to watch the civilian sector, no duties of allocation. All I had to do was coordinate the Wehrmacht. Dr. Conti was active in the civilian sector.

Q. That's right, and Dr. Brandt was standing between you and Dr. Conti to see that both of you got what you needed insofar as that was possible, wasn't he?

A. Yes. For the personnel and material question, yes. I don't know how the special question of vaccines was treated. I never had any discussions with him about vaccines.

Q. Is it not true that certain German hygienists held the view that the effectiveness of typhus vaccines could not be established in advance through animal experiments because about forty percent of the animals have the power of resistance and will not get sick although artificially infected?

A. I am not informed about that. I cannot tell you that. I don't know from where you get this utterance, but it is something so special that that I couldn't defy in my attitude towards it. I am not aware of the comparison in the number of animals and persons.

Q. Well, you heard Karl Brandt testify from the stand that in his opinion human experiments were necessary in typhus just as in malaria.

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Do you remember that?

A. No. I cannot remember that.

Q. Well, what is your opinion in the matter, or do you have one?

Do you believe that it is necessary to experiment on human beings as distinguished from animals to determine the effectiveness of typhus vaccines?

A. I can only say the following in that connection: my concern was the practical commitment of an available but not tested vaccine with human beings and with human beings to a large extent. They were to be inoculated with a vaccine, the effect of which was tested to a sufficient extent that we could well say that no harm would be done. With reference to vaccine experiments on human beings which went beyond that, with reference to the necessity of that with reference to the limitation regarding animals in a special case, those are such outspoken technical concepts which as a prerequisite demand a lot of knowledge and which cannot be done away with general phrases where the general medical man could not possibly judge, and I should have to ask you to hear an expert on that question because I am not in a position to give any judgment on that.

Q. Now, General, you admit that an extreme necessity existed to determine the efficiency of the o yolk vaccine in the winter 1941-42. You further admit in your own statement here that this chicken egg vaccine was not

sufficiently proved. You go on to say that to provide adequate protection for the combat areas as well as for the Zone of Interior against typhus, it became necessary to clarify the value of this vaccine at the earliest moment, and then you say that it is quite possible that Hrugowsky might have been assigned to carry out these studies.

Q Now just what did you do to establish the effectiveness of this egg yolk vaccine? And I don't want to hear you tell me about compatibility tests. I want to hear about the tests that were carried out to determine the effectiveness of this egg yolk vaccine.

A I have already said that for some -- and I cannot tell you for how long -- and I believe I said that in Oberursel, too, the report came along that this vaccine had been committed and had proved itself to be good and was being produced to a large extent. That was one report. The other fact was that we had decided to free ourselves from vaccines as such and as a substitute resort and concentrate on delousing means.

Q Now let's forget the delousing, General. Let's forget that. The delousing is not in issue here. You haven't yet told me about any experiments that were carried out to determine the effectiveness of this egg yolk vaccine. What experiments were carried out? What did they do? How did they determine that the egg yolk vaccine was or was not effective?

A I didn't establish any effectiveness at all. I merely said that it should be used practically, and this is not an experiment, but it is merely a use as in the case of a drug from which in practice can be seen whether it is effective or whether it is not effective. Beyond that I had no interest at all. I never initiated any experiments nor was I informed about any experiments. Dr. Byer progressed so much in his production that this in itself was a very positive side of the affair. As for experiments, I knew nothing about them, and this wasn't a question I dealt with.

Q General, you say here that the purpose --. You say first that it is, therefore, quite possible that in the course of a conference Dr. Hrugowsky might have been assigned to carry on studies about parallel tests, about dosage compatibility and efficiency of this typhus vaccine on

human beings. The purpose was to arrive at a final conclusion whether the vaccine produced by the Robert Koch Institute was adequately efficient and could be used in the Wehrmacht and in the typhus areas of the Eastern Front with a considerable prospect of success.

I am asking you whether or not, as was ever determined whether the egg yolk vaccine was suitable for use by the Wehrmacht. Did you ever arrive at any conclusion on that?

A I would assume from the start that typhus vaccine from chicken eggs was used to a smaller extent. From figures of production from Frankfurt, for instance, it can be seen that they already delivered to military and civilian sides. There was no large commitment of that vaccine, and I think it actually has happened at sometime and some where.

Something was published about that in the press, and I think some extensive article appeared at a later date about it. I am quite sure that I and Schreiber, too, had the impression that the question of the effectiveness of the egg yolk vaccine could be assumed as having been confirmed. Whether and how far we were calmed because of that and we were satisfied, I don't know, because it is remarkable that all research work in foreign countries as in the case of France, Russia and Germany always searched for

a different vaccine. That is the reason why the question couldn't have been yet finally concluded but for me it was concluded insofar as within the framework of what was available this vaccine could be used and I didn't want to know anything more than that.

Q. And how again was it determined that this vaccine could be used? How did you arrive at that judgment?

A. Schreiber must have received some kind of material on that or the Army Medical Inspectorate. I only remember that I was told that this vaccine was all right.

Q. And when were you told that?

A. I cannot give you any exact date. Maybe Mr. Schmidt would know the who worked on that question.

Q. Well, it must have been sometime after the first part of 1942, or your statement here about Krugovskiy and the necessity of testing this vaccine is just a lot of jitters. Won't you have any idea when you decided that was okay to go ahead with egg yolk vaccine use?

A. Well, I mention it was produced. I mention it was used to an increasing measure. I mention reports came about it from eastern territories where it was used probably. What the extent was I don't know because Otto still writes in 1943 that it hasn't yet been proved to a large scale, but I must again mention delousing, and you can't push me away from that because therein was the new decision to get away from this other procedure. Our institutes, perhaps, could have been bombed and destroyed in Cracow and Lemberg. Then we would have been left with a thing. That is why we concentrated on delousing with all our powers because it was more certain than vaccines.

Q. General, wasn't there a commission formed later in 1941 to study this whole typhus vaccine problem?

A. I don't know about that.

Q. You don't know that Conti and Gildemeister, Reiter, Rose, Schreiber and Krugovskiy were on this commission?

A. No.

Q. Who was Bieber, B-i-e-b-e-r?

A. That is a gentleman from the Ministry of the Interior.

Q. What was he doing in the Ministry of the Interior?

A. He was a man - he was a collaborator of Conti.

Q. Did he ever do anything on typhus?

A. I cannot tell you that. I personally never got into contact with Bieber. At the moment I couldn't tell you when I saw him or when I spoke to him. I only know Bieber because of his name which does not exclude the possibility that I met him or spoke to him, but I had no personal or official relations with him.

Q. And you can't tell this Tribunal of any specific instance in which you received a report on the efficiency of the egg yolk vaccine? You know no special instance where experiments were made or in which this egg yolk vaccine was tested, is that right?

A. I couldn't tell you anything of that nature at the moment.

Q. All you know is that it was a very important problem at the end of 1941 but somehow the problem seemed to evaporate and you don't know how it was resolved, is that right?

A. No. The problem didn't evaporate. In my opinion, the production of this vaccine was increased. That is why we didn't have to give anything away of the vaccine that belonged to us which in itself helped us essentially. In addition, there was the question of delousing so it certainly didn't evaporate. It progressed systematically and I should like to repeat once more that it is a misunderstanding of my position and my tasks and a misunderstanding of the tasks of my collaborators if you think that I could give you such detailed information. I hope that if, for instance, you put these questions to the expert, Schmidt, who is a hygienist and who worked on these questions, he would be able to help you over this vacuum of evaporation. I only repeat what I have already stated.

Q. Well, so far as you yourself know, you cannot tell this Tribunal the problem of the efficiency of the egg yolk vaccine was solved other than by your explanation about delousing?

A. No doubt by the use.

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THE PRESIDENT: The Tribunal will now be in recess until one-thirty
o'clock.

(A recess was taken until 1330 hours.)

THE MARSHAL: Persons in the Court Room will please find their seats.
The Tribunal is again in session.

DR. FLEMING: Attorney Fleming for Dr. Kaufmann and the defendant Rudolf Brandt. May it please the Tribunal, the defendant Rudolf Brandt requests that he be excused from the Court Room after the recess in due consideration of his physical condition.

THE PRESIDENT: What is the physical condition of defendant Brandt today, Counsel?

DR. FLEMING: The defendant Rudolf Brandt has recently requested that he be examined by the prison medical officer. The prison medical officer has determined that Rudolf Brandt is in a bad general physical condition; and among other things he has ordered that he be given additional food and also has ordered that he rest. Rudolf Brandt feels very much exhausted by this morning's session and therefore requests that he be excused immediately following the afternoon recess.

THE PRESIDENT: The Tribunal has before it no basis upon which to excuse the defendant Rudolf Brandt. The Tribunal will request the prison physician to make another examination of the defendant Brandt after the session today and report to the Tribunal his findings on the matter; but at this time the Tribunal has no justification upon which to excuse the defendant Brandt from attendance. Will the Secretary General request the prison physician to make another examination of defendant Brandt after the close of the session today? The prison physician should report to this Court concerning his findings as to the physical condition of defendant Brandt and give his opinion as to whether or not the defendant Brandt's physical condition is such that he should be excused from attendance upon the trial tomorrow or any subsequent period.

SIEGFRIED HANDLOSER - Resumed

CROSS EXAMINATION (Continued)

BY MR. McHANEY:

Q General, do you remember any specific steps which you took in the

latter part of 1941 with respect to the typhus problem?

A In the latter half of 1941? I have already said that the latter half of 1941 would have been the period of time when the cases of typhus began to spread.

Q Did you ever suggest placing the production of typhus vaccines in the hands of the pharmaceutical industry?

A If this was at the very beginning, I cannot say. However, I am of the opinion that, for example, the foundation of the Behring Institute at Lemberg was caused by the necessity of producing more typhus vaccine. I cannot remember exactly; but I can still remember that the question was discussed with regard to the industry. I was thinking first of all of the Behring Works at Marburg and that we should request them to increase their production. That is the only thing I can say on the subject.

Q Well, let's put Document NO-1323 to you, Doctor. This is the letter you wrote to Conti, isn't it, on 6 October, rather than on 10 November 1941?

A Yes, that is quite possible.

MR. McHANEY: The Prosecution offers this as Prosecution Exhibit 452 for identification.

Q Will you please read this letter aloud, General?

A "To the Reich Health Leader, for information of the Reich Minister of the Interior, Berlin, the Government of the Government General, at Cracow, the Reich Health Office, Institute for Typhus and Virus Research, Cracow.

"Several offices, particularly in the Government General, have apparently experienced an increasing demand for typhus vaccine during the past few months. At any rate the OKH has repeatedly been asked for typhus vaccine. On account of the requirements of the OKH itself, this request could be met only in part. As far as it is possible to judge the development of the epidemic, it is to be expected that the demand will continue to exist in the future. It is therefore suggested to place production of the typhus vaccine in the hands of the large-scale pharmaceutical industry. The army, too, although probably on a smaller scale, would be considered a customer."

Q You'll notice from the attachment that this letter was passed

along by Conti to the Robert Koch Institute, wasn't it?

A The Reich Minister of the Interior requested it to be returned by the Robert Koch Institute.

Q That means that it undoubtedly came to the attention of Gildemeister, didn't it?

A Yes, Gildemeister was the resident of the Robert Koch Institute.

Q Did this letter in any way refresh your recollection about any meeting in December of '41 with Gildemeister and Reiter concerning typhus vaccines?

A No. That only refreshes my memory to the extent that before I knew of the document I had answered in reply to your question that I could faintly remember -- and I was thinking of the Behring Works first of all -- that the question had arisen that the civilian industry was to be included; and this fact has been confirmed by this document. What Conti did afterwards with this letter was not within my sphere of influence. If it has been assumed that the Robert Koch Institute was the institute and Prof. Gildemeister was the person subordinated to Conti who advised him, then this would be quite an ordinary procedure and then the state secretary in the Reich Ministry of the Interior should pass on such a letter from the OKH to such a subordinate or consulting agency.

Q You don't know what was done concerning your suggestion that the pharmaceutical industry begin production of a typhus vaccine?

Q. You don't know what was done concerning your suggestion that the pharmaceutical industry be in the production of a vaccine, typhus vaccine?

A. Well, I only meant to say that either the production was increased or that the Institute of the Civilian Sector at Lemberg, or of the industry which has already been mentioned, that this was the effect of it. And, as far as I am able to remember, this institute at Lemberg has produced vaccine from the intestines of lice and also the vaccine from chicken egg yolks. Therefore, this is the effect of the request by the CNH.

Q. Where did they get their experience at the Tschring works in Lemberg in the production of Weil vaccine?

A. I cannot tell you that at the present time. Maybe I am mistaken. Perhaps they have only produced this vaccine from chicken eggs but I stated I thought they were producing both; that in the very beginning produced Weil vaccine. I cannot say for certain, that is only an assumption on my part. I can only say this on my recollection.

Q. Was Weil working under Dier at Graz in the CNH Institute at Lemberg?

A. On the occasion of my visit in the summer of 1941 I have seen him at that institute and I have talked to him and know that he had been working there for quite a long period of time.

Q. I want to put another document to you, General, NO-1321. This is offered as Prosecution Exhibit 453 for identification. General, this is nothing but a single little cover letter which makes mention of a meeting conference on the 29 December 1941 concerning typhus. We just have two pages of it - the second and third page. It says up at the top:

"2.)To

the State Institute
for Experimental Therapy
Frankfurt / Main"

That was the institute under Geheimrat Otto?

... That was the institute under Geheimrat Otto.

This does not have a letter head, as we call it.

Q. Now, let's wait just a minute, General, we'll find out what the

Document is first.

"Inclosed find copy of notes of a conference which took place here on 29 December 1941. I request you report what quantities of typhus serum can be produced in your institute per month, and will be available for the civilian population. Furthermore, is this vaccine free of charge, or will it be charged and at how much?

"In addition, I would appreciate your cooperation with the Institute for Contagious Diseases 'Robert Koch' Berlin for the purpose of establishing a test method for typhus vaccine, and submit same to me."

Then we see that a copy of these minutes of this meeting were sent also to the Robert Koch Institute, to the Government General in Cracow, to first the Army Medical Inspectorate, which would be to your office, to the Behring Works of the I. G. Farben, and to Dr. Conti. Now, does this little document by any chance refresh your recollection about the meeting of 29 December 1941?

A. Yes.

Q. You can see that there apparently was a meeting?

A. Yes.

Q. Do you know a man by the name of Oberstabsarzt Dr. Schultz?

A. Yes.

Q. Tell the Tribunal who Schultz is.

A. Oberstabsarzt Dr. Schultz was a collaborator in the Army Medical Inspectorate.

Q. Collaborator in what?

A. He was in the Department for Scientific Health Leadership or he also may have worked in the Organizational Department. However, I cannot say that any more. However, he was dealing with medical matters. I, therefore, assumed that he may have been with the Department for Health Leadership.

Q. Did he have anything to do with typhus, for example?

A. Not expressively. He handled everything connected with health measures and health guidance. He was a medical officer who had received previous training but not in the field of hygiene and he was not a bacteriologist.

Q. I don't suppose you ever had any contact with him?

A. I had the same contact with him as I had to the other fifty medical

officers who told me that the staff of the Medical Inspectorate.

Q. 50 or 15, I didn't understand you.

A. 50.

Q. Do you know a man by the name of Professor Dr. Kulicke?

A. "Kuligep" -- he was professor for surgery at the University of Jena.

Q. K-u-l-i-c-k-e?

A. No, the man I refer to is called "Kuligep". At the moment I cannot remember the name of Kulicke.

Q. You know a man by the name of Dr. Buermann, B-u-u-r-m-a-n-n?

A. Buermann, with "B". No, I don't know that -- Buermann.

Q. Do you know anyone by the name of E-r-b-a?

A. E.

Q. Euermann?

A. I know a man by the name of Euermann. He was a highest of physician who later on worked on personnel matters in the Army Medical Inspectorate. He only handled personnel affairs. He had nothing to do with medical matters.

Q. Know anyone by the name of Dannitz?

A. Not within my field. No. Dannitz as a physician may have played a part in literature but not within my field of competence.

Q. You said to have the defendant Hergel tell you about Dannitz some day. But, in the meantime I am perhaps going to relieve you a little bit and put to you this report of 29 December 1941 because it appears there were two conferences on typhus that day. I have got the minutes of one of them here. I think you will find it interesting, if not refresh your memory, about the meeting that took place. I would like to put to you Document NO-1315. This will be ---

THE PRESIDENT: Counsel, just a moment. Attached to Document NO-1321, consisting of two pages, was another document of one page, Document NO-1316, was that intended to be attached?

MR. McHANEY: No, sir, it was not. I don't know what 1316 is.

THE PRESIDENT: We will return it to the Secretary General.

MR. McHANEY: Thank you. This will be Prosecution Exhibit 454 for identification. General, I would like to read this aloud so the Tribunal

will have it before it.

Dated Berlin, 4 January 1942. Memorandum originating from the Reich Ministry of the Interior signed by Dr. Bieber, you told us about this morning, reads as follows:

"On 29 December 1941 a conference took place at the Reich Ministry of the Interior concerning the development of a typhus vaccine in which, aside from the undersigned, the following took part:

"From the Institute of Infectious Diseases 'Robert Koch': Vice President Dr. Gillemeister.

"From the Governing Body of the Government General: Dr. Kudicke Med. Rat. Dr. Maunmann.

"From the Army Medical Service: Oberstabsarzt Dr. Scholz

"From the I. G. Farben Industry, Behring Works Department:

"Director Zahn

Neumann

Dr. Demnitz

"The conference had the following results:

a) A production center is to be erected in the Government General, specifically at Lemberg, which is to develop an anti-typhus vaccine according to the Seigl method. The production center is to be erected and activated by the Behring Works. The Wehrmacht has been asked, and has indicated its willingness, to place Professor Seigl at disposal for training of personnel, equipping of rooms, etc. The governors of the Government General will furnish the necessary buildings and rooms. The Behring Works will secure the necessary equipment and place the required orders for this with the Reich Office for Economic Development with a priority certification from the Governor General. Production shall be built up in the shortest possible time so that its capacity will be the equivalent of that of the existing Wehrmacht Institute (Krakau and Lemberg). The vaccine developed is to be primarily at the disposal of the Wehrmacht in the Government General.

"b. The vaccine which is presently being produced by the Behring Works from chicken eggs, shall be tested for its effectiveness in an experiment. For this purpose Dr. Demnitz will contact Obersturmbannführer Dr. Mrugowsky.

"c. If this Behring Works vaccine is proved to be effective the production capacity of the Behring Works in Harburg shall be essentially increased. The Behring Works will address an application to the Reich Ministry of the Interior for a priority certificate for the securing of the required continents, and place the necessary orders with the Reich Office for Economic Development with this priority certificate.

"d. The production of typhus vaccine at the 'Robert Koch' Institute shall be increased.

"e. Methods for testing typhus vaccine shall be developed which will make state control possible.

"The Behring Works are sending a representative to the Government General on 6 January 1942 so that preparations can be initiated immediately for the production of typhus vaccine according to the Weil Method.

Signed Sieber
Ministerialrat

Berlin, 29 December 1941.

General, does this refresh your recollection in any way about a meeting which you attended on the same date.

A. No.

Q. Did your subordinate, Scholz, report to you about this meeting?

A. About this meeting?

Q. Yes.

A. I cannot tell you that any were at this time. After all, the whole procedure was very normal and it does not contain anything in any respect which would have caused my intervention or which would have offered anything in particular aside from the fact that an in-

crease in the production of vaccine was to be attempted here.

Q. Well, I'd like to point out to you that it shows one very important thing, particularly in Paragraph b and that is that Dr. Krugowsky, who was not at this meeting, was to be contacted so that he could carry out experiments to determine the effectiveness of the egg yolk vaccine, a problem which you have already admitted to the Tribunal was very important and one in which you were interested. So we see immediately that Gillmoister, for one, a representative from your office and people from the Behring Works agreed that tests would be carried out by Krugowsky.

A. Gillmoister was not a representative from my office. That is a mistake. Gillmoister was expressly a member of the civilian sector and he may have been the adviser and collaborator of Genti but not of myself.

Q. General, we don't need a long statement on that. You misunderstood what I said. "Gillmoister and a representative of your office" who was Scholz-Overstabsarzt Scholz. He was there, you remember?

A. At this conference, yes.

Q. So we see something in the nature of backing either than the SS for the experiments to be carried out by Krugowsky which, as you now know, were carried out at Buchenwald. You didn't know anything about that?

A. No.

Q. Let me remind you of a few of the earlier entries in the Ding Diary. As early as 6 January 1942 the diary shows that an experimental series was begun during which 31 persons were immunized with the Weigl vaccine from your institute at Crkew; 35 persons with vaccine made by the Process G. x, Gillmoister and Hagen; 35 persons with the vaccine "Behring Normal" made of course by the Behring Works at Marburg; and 34 other persons with another Behring vaccine. Now do you explain that Ding by 6 January has Weigl vaccine

from your institute at Crakow, the oil vaccine produced by the Behring Works and a similar vaccine and an infection material from the Robert Koch Institute unless that meeting between you, Conti, Gilchrist and Krugowsky took place?

A. That can be explained very simply. With regard to the Voigt vaccine, I can only repeat once more that the Voigt vaccine was distributed to a large number of places as soon as the institute Crakow was established in 1939; that, for example, the Main Medical Depot of the SS was furnished with it; that, in my opinion, it was also stated in this letter that it has been previously furnished to various places and, as a result of this, it was not very difficult to obtain this oil vaccine.

Q. Do you know anything about a decree of 5 January 1942 concerning typhus?

A. No, it is impossible for me to know that although I would like to tell you very much. I cannot state that to you.

Q. Did there come a time when you issued instructions that typhus vaccine was no longer to be issued to the various individual branches of the Wehrmacht but only to you as Chief of the Wehrmacht Medical Service or to your main medical supply office?

A. I believe that I have already previously mentioned that distribution was with the Army Medical Inspectorate and that afterwards I took over the distribution as Chief of the Wehrmacht Medical Service.

Q. Well, just for the record, let's put in Document No. 1318. This will be Prosecution Exhibit 455 for identification.

This is a letter from -- the signature is not as illegible. It's from the Robert Koch Institute to the Reich Minister of the Interior. It's dated 21 January 1943:

Re: Typhus vaccine for the Wehrmacht

Decree of 31 December 1942.

"The Chief of the Wehrmacht Medical Service, approached with a letter of 11 January 1943 -- copy enclosed -- to the Government and industrial factories for typhus vaccine, with the request in future no longer to supply this vaccine to the various individual branches of the Wehrmacht, etc., but only to the Chief of the Wehrmacht Medical Service or his Deputy, the Main Medical Supply Office. There are no objections to this order as far as the Robert Koch Institute is concerned."

"Furthermore, information is requested as to the possible maximum output of typhus vaccine, what increase of production can be achieved by what date, and what quantities can be made available to the Wehrmacht and affiliated formations. A copy of the reply which I sent to the Chief of the Wehrmacht Medical Service to his request is also attached. The estimate, for 1943 anticipated, of the output of typhus vaccine has been made along very conservative lines; the stated quantity of 24 liters per month may be exceeded considerably."

Now, General, didn't you also exercise some control over the production of typhus vaccine as distinguished from the allocation of typhus vaccine?

A. It may be that such a question was asked by me or one of the people on my staff in order to be informed as to the extent. That is quite possible and I cannot say anything more about it at the moment.

B. Well, you will recall that in Document No. 1031, Prosecution Exhibit 308 -- it was a memorandum concerning a spotted fever research order by Kent to Dr. Hannon and it stated "also a copy to the Science and Research Group of the Military Medical Academy". That is of the Luftwaffe. Paragraph 2 reads: "A decision as to the establishment of a vaccine manufacturing plant cannot yet be made because the Chief of the Medical Service of the Wehrmacht, who alone is competent to decide about the procurement of vaccines, has not yet taken a stand in the matter." Doesn't that rather indicate

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that you had some control over production of typhus vaccines?

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A. Something else is involved with regard to this document. This is a request to establish a new place of production and to obtain a large amount of personnel and material in order to establish new production facilities. I can only say with regard to this, that such a request has never reached my hands and I assume that somebody from the Luftwaffe, or perhaps Professor Rose, could give you more information about it because you have also seen from the document that no reply was ever received by the Chief of the Wehrmacht Medical Service. We were never so impolite that we did not give any answer for months to letters which were received. One can only say that this request referring to the establishment of such an institute or the extension of such an institute never reached my hands and that is why I never gave any reply.

Q. Well but the point is they had to get your permission to establish new facilities, didn't they?

A. It may only be in this case that all new constructions and all new facilities required the approval of the OKW and that I, in my capacity as Chief of the Wehrmacht Medical Service, was also included. In connection with this I want to state that I could not give any approval of that kind because I did not have any funds. I had to submit them to the OKW and obtain their approval.

Q. What about the production facilities at Buchenwald--they didn't start until 1943 -- I don't suppose you know anything about the production of vaccine there, do you?

A. No.

Q. Never heard of any vaccine produced by the Waffen-SS?

A. I have heard for the first time of a typhus vaccine produced by the Waffen-SS in the year 1945, when I was vaccinated in the prison camp at Bad Eibling with this vaccine.

Q. How do you explain your alleged ignorance of the Buchenwald experiments and vaccine production in the face of your critical interest with typhus problems and your personal control over typhus vaccine allocation?

A. I can only explain it to the fact that I did not know the name of Buchenwald at all, and if any vaccine by the Waffen-SS had reached my hands, or if I had ever heard of such a vaccine of the Waffen-SS, which is not impossible, then I would immediately have brought it into connection with the Hygienic Institute of the Waffen-SS. I have never entered this institute but in any case I know of its existence.

Q. But General, in January 1943, the Robert Koch Institute recognizes an order from you that they are to quit allocating vaccines to any of the branches of the Wehrmacht and have to channel everything through you. Now do you mean to tell the Tribunal that the typhus vaccine production station of the Waffen-SS at Buchenwald could do what they wanted to do with their production -- you had no control over that and never heard of it -- is that right?

A. I can only say that if such an order, because of the delivery, was issued by the Chief of the Wehrmacht Medical Service, then this was only sent to a certain distribution and the Waffen-SS was also included in it. That probably was directed by the Chief of the Medical Service of the Waffen-SS, Dr. Genzken, because his letters were always kept very generally; if, and how long this vaccine was produced with the Waffen-SS, I cannot tell you. Perhaps Dr. Schmidt can give you more information about that because he was with the Medical Inspectorate. I myself have only discovered it for the first time in 1945.

Q. General, what possible interest could the SS have in testing these egg-yolk vaccines on its own initiative in Buchenwald without your support as the Army Medical Inspector and the support of Conti as Secretary of State for Health?

A. The SS maintained its own field, as I have already previously described. The fact could not have remained hidden here that this sector worked completely by itself. Several documents give proof of the fact that requests were made for the establishment of a whole series of scientific research institutes and a whole number of approvals by agencies for that purpose. I have never found out anything about them. I have repeatedly

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stated that it was not possible for me to gain any insight into the character and the system and the intentions of the SS and therefore it is not surprising that this was also the case in that field. I cannot say what the purpose of the SS was but I assume that one of the reasons was that they wanted to be independent and they wanted to be independent of any allocation through me so that I would not be able to say "You will get very little now, or nothing." That is one explanation. I cannot state anything further on the subject.

Q. Any SS troops using the Behring egg-yolk vaccine would be in the field under the jurisdiction of the Army Medical Inspectorate in medical matters, would they not?

A. The SS units at the front with regards to the medical service and, in this connection, which concerns the care for the men in combat, so the SS units were also vaccinated, and I am quite certain that at the beginning they were inoculated with the Weigl vaccine. I believe they were subsequently inoculated with the egg yolk vaccine but I cannot state that with certainty.

Q. How do you explain your alleged ignorance of the typhus experiments at Buchenwald in the face of the fact that Eier made a visit there, Schmidt made a visit there, there has been some testimony that lice were sent from the Institute at Krakow, in the face of the fact that Ding made a report at the meeting of the Consulting Physicians in May 1943--how do you explain your ignorance of these matters? Did these men just fail to report all this to you?

A. With regard to Ding, I must repeat that I have not listened to his report and what I have heard of it, and what I have read, does not give me any information about where and how his experiments or his tests were carried out. With regard to the visits of Schmidt and Eier, I was completely surprised to see this entry and I cannot give you any information about it. However, I assume that it will be given by somebody else. Nobody talked to me about it and nobody received any orders from me.

Insofar as Buchenwald is concerned, I can say that I have heard the name mentioned for the first time after the capitulation.

MR. McHANEY: I have no further questions.

THE PRESIDENT: Any re-direct examination of this witness by defense counsel?

RE-DIRECT EXAMINATION

BY DR. HELTE:

Q. Professor, Dr. McHaney has asked you about the report and the lecture which Dr. Holzlochner gave at the meeting of the Consulting Physicians in December 1942. It was one of numerous lectures in this field. Now I want to ask you once more if you know with certainty that you have heard this lecture by Dr. Holzlochner?

A. According to the entire situation I must answer this question in the affirmative because the lecture of Holzlochner took place amongst a whole series of lectures about freezing and this meeting took place already in winter. It was from the 30th of November until the 3rd of December, and for me it was the important or one of the most important problems, and therefore in my opening speech and also in the discussions, I have directed and appealed to them and have warned them that they were to do everything in order to avoid, in the course of the winter, that we should again get into such a situation as in the winter of 1941 or 42. For this reason, and because of the importance of the problem, I consider it certain that I have attended the lecture.

Q. Could it also be seen from the lecture that experiments were carried out on human beings?

A. I cannot remember the lecture exactly anymore, but when I look at the report then it shows what I have already previously stated, that research was being carried out on animals and on human beings, and to the participants who are informed to a certain extent there cannot have been any doubt, and perhaps this has been mentioned in the detailed lecture that Holzschner has collected his experience in actual sea emergencies and that was at the Atlantic Coast.

. Therefore you say that the lecture had to convey the impression to the listener who knew Holzschner that he had made his experiments on pilots who had fallen into the sea and who had been turned over to him for treatment---

MR. McHANEY: If the Tribunal please, I don't think it is necessary to lead the witness quite that much. Now, he asked the witness a direct question and he gave him an answer which I think was understandable by all of us, and I think it is quite improper for him then to restate the matter the way he has done it and put words in the mouth of this witness that he didn't utter.

DR. MELTZ: May it please the Tribunal, I had the impression that in the course of the interrogation by Mr. McHaney that this problem had not been explained as clearly as I would like to have it clarified for the understanding of the Tribunal --

THE PRESIDENT: Counsel, the Tribunal overrules the objection to the question. You may proceed.

. Mr. McHaney has shown you part of the testimony of the former Generaloberstabsarzt Hippke, which the latter gave in the course of the Milch trial. I do not have the record of its presentation nor the record of the testimony. As far as I can remember Generaloberstabsarzt Hippke stated that you had been his superior when he was medical inspector of the Luftwaffe; that is the time prior to the 1st of January 1944. In the decree of 1942 or the service regulation which was issued in connection with it, is the word "superior" contained with regard to the Chief of the Wehrmacht Medical Service?

.. Neither the word "superior" nor any authority to issue orders is mentioned.

. In the time when you were Chief of the Wehrmacht Medical Service and

when Hippke was Chief of the Medical Service of the Luftwaffe, was there any cause to awaken the impression with Dr. Hippke that he was your subordinate?

A. No, and I believe that if Hippke had been asked at the time, or if somebody had told him that I was his superior, then he would have refuted this loudly and clearly.

Q. The prosecution has handed to you Document 1490 -- may it please the Tribunal, I do not know the exact exhibit number. It is a letter which the Chief of the Army Ordnance and Chief of the Reserve Army addressed to Reich Marshal Goering. It deals with a question of your entry into the council of the Reich Research Council, and the suggestion to admit Dr. Schreiber into the Reich Research Council. May it please the Tribunal, this document NO-1490 is exhibit 450. The prosecution believes that the former Oberstabsarzt Dr. Schreiber had in a certain way been the liaison officer of the Army Medical Inspectorate to the Reich Research Council and that he had been suggested by you for this position; is that correct?

A. At this time I cannot exactly describe the incident anymore as it occurred at that time. In any case this was in accordance with a wish of the Commander-in-Chief of the Reserve Army, that the Wehrmacht should be represented in this Reich Research Council.

Q. But I want to know is, if the requests which are contained in the letter of 9 December 1942 were both disapproved?

A. Yes, with "If then more improved."

Dr. Nolte: Mr. President, this is shown by the letter of 21 October 1942 which was also presented by the prosecution but which, however, has not been read.

Q. In the letter of the Chief of the General Wehrmacht Office to Professor Hindlauer, of 21 October 1942, the following is stated, and I quote a sentence: "The Reich Marshal told me he has disapproved a further extension of the Reich Research Council". And now I am asking you -- Dr. Schreiber, who, as is known was the Commissioner of the Reich Research Council for the selecting of epidemics, was he suggested by you after this disapproval?

A. No, Schreiber came to me spontaneously and informed me that the offer had been made to him.

MR. MC HANEY: If the Tribunal please, I don't think this is the proper time to argue the interpretation of documents, but I just want to state that the excerpt from the letter which has just been read by Dr. Nolte certainly constitutes no rejection on the part of the Reich Research Council to the nomination of Schreiber by the Army Medical Inspectorate. The letter which I didn't read concerns itself only with the appointment of Handloser. It is a personal letter to Handloser stating that he has not been appointed to the presiding council of the Research Council as he wanted to be, and that's all it says. It makes no reference to Schreiber and it can't be tortured in the meaning that Schreiber and the other recommendations made by Frohm were turned down by Goering.

DR. NOLTE: Mr. President, I believe that I am in agreement with Mr. McHaney that I can leave the interpretation and judging of this letter to you. It is stated clearly and explicitly that the Reich Marshal fundamentally disapproved a further extension of the Reich Research Council.

Q Witness, the prosecution has asked you the following question: Is not the collection of human beings and material for research purposes a task which was common to all branches of the Wehrmacht? In the decree of 1942, personnel and material coordination is mentioned, and I am now asking you, did this personnel and material assignment of coordination also refer to the medical officers which were to be assigned research jobs?

A That is not specifically mentioned at any place and there has never been any special discussion on that subject.

Q I now want to ask you if, as Chief of the Wehrmacht Medical Service, you might have wanted to, or if you were ordered to, engage in research, would it have been necessary for you that in your capacity as Chief of the Wehrmacht Medical Service you should have had a department like with the Wehrmacht Medical Inspector? Did you have such a department, for science and research?

A No, I had a man there who took care of the medical, scientific and research matters. I had such a man, but he had nothing whatsoever to do with research.

Q That is a question which I specifically wanted to know of you. After all, money is needed for research purposes. As chief of the Wehrmacht Medical Service did you have any funds allotted for research?

A I did not have any money at all. Whenever something of that kind came up I had to turn to the GMY. I did not have any funds available for research at all, but the money was for the branches of the Wehrmacht.

Q With regard to the lecture of Professor Dr. Gebhardt and Dr. Fischer the prosecution has stated the following -- I beg your pardon -- you have stated in connection with this, all the people who attended did not object specifically to the statements which were made by Professor Gebhardt and Dr. Fischer, at least nothing came to your knowledge about that subject. Mr. McNamoy has stated this fact can be interpreted in several ways, either as you want it, that those statements did not cause any specific interest, or as the prosecution has stated, that all the persons who were present did not object to them because they already accepted that fact as natural; that concentration camp inmates should be used for medical experiments. Now, I am asking you the following question; is there not yet another possibility which shows your actual nonintervention and your failure to take any action?

A. Well, this could only be in my own person. That I did not understand in that way.

Q. Well, not only you but also the others. I now want to ask you in the formulation of the lecture or what Professor Gebhardt stated, could there be anything contained in it as far as the manner of the execution was concerned, which might show that you and the others --

A. That is what I have repeatedly stated here, that in my opinion the formulation and the description and the explanations were presented in such a manner that no reasons for objections existed.

Q. Therefore, there is the third possibility that something which might have diverted from the ordinary might have been presented, but that the manner in which it was presented conveyed the impression with the listeners that this was not irregular.

A. That is quite possible, yes.

Q. The Prosecutor has now mentioned bacteriological warfare once more, and he has repeated a question which was also presented to Professor Brandt, the question of an order by Keitel. Now I want to state expressly the reference to Document 1309 which in itself was not presented to you leaves the necessity for a question open, namely, a question how the following sentence is to be interpreted. On page 1 the file mark states, and I quote: "The Wehrmacht by request of General Field Marshal Keitel is not to participate in a responsible manner in the experiments because experiments would also be carried out on human beings."

Does this formulation at all show that an order was issued in that direction by Keitel?

A. No.

Q. Where did Kliewe work?

A. At Berlin at the Military Medical Academy.

Q. And where was his agency as the Blitzableiter specialist?

A. In the Armament Department 9.

Q. Therefore, what did he have to do with the Medical Inspectorate?

A. As medical officer, he, first of all, belonged to the Medical

Inspectorate organizationally, and then he was a good general hygienist. He was the head of an investigating office in Germany, and he was not fully occupied there, and he was also occupied with other matters.

Q. I only want to determine here who was his superior with regards to the work.

A. That was Weapons Office 9, the Armament Office 9.

Q. In the cross-examination the Document NO-155 has been handed to you. It was not presented to you, but it was used as a basis for your examination. The Prosecutor has mentioned the name of Professor Wirth, and he has stated that Dr. Wirth had suggested that experiments should be carried out on concentration camp inmates at Neuengamme, that you must have had knowledge of them.

I would like to read you the sentence which has given the reason for this question in Document 154: "A third series of experiments was discussed with the representative of the "lost" group according to the suggestion which Oberstarzt Dr. Leeb made on the occasion of the discussion with the Reich Commissioner on the 4th December, 1944." This is a sentence suitable to give course to the conclusion that Wirth said that this experimental series should be carried out at Neuengamme or at any other concentration camp.

A. No, he did not say that with any other word.

Q. Therefore, it is only a conclusion from the measures which President Kenrich drew from the discussion on the fourth of December, 1944.

DR. NOLTE: May it please the Tribunal, I shall have the Professor, Wirth, who is located in the prison here -- I shall give him an affidavit, and if the Prosecution wants to know more about the affidavit, then he can be available as a witness at any time.

Q. Now in conclusion I want to come to the typhus question which has occupied so much time in the interrogation by the Prosecution. I believe that we can be grateful that the Prosecution has presented the

last four documents because they really give a certain clarification with regard to the question of the typhus vaccine production and distribution. Is it correct for me to say that the big interest in the typhus question -- and I want to say generally -- consisted in the fact how can typhus be combatted effectively?

A. Yes, by all means.

Q. What is the most natural and the most important means of combatting them?

A. Delousing, that is, combatting the lice.

Q. When towards the end of 1941 the danger existed, did you also have typhus vaccines available?

A. There was the Oyer Vaccine, the Weigl Vaccine and also the chicken egg yolk vaccine.

Q. Wasn't there also a Giraud Vaccine?

A. I do not know if it existed at that time, but I assume that it may have existed then.

Q. Was egg yolk vaccine already produced at that time?

A. Yes.

Q. Now if you have effective vaccines in various types, will it be wrong to discuss the research problem for the time being instead of devoting time to the production of vaccines?

A. That is correct with one exception. In the case of the Weigl Vaccine which was excellent, the production could not be raised over a certain amount, and with the egg yolk vaccine we had difficulty in obtaining the eggs because we would have needed hundreds of thousands of eggs. Already we had to look for something which could be produced more easily.

Q. Does it vary from the urgent problem of trying to raise the production of vaccines?

A. No, that is the same thing.

Q. I assume that the documents which the Prosecution has presented confirm your statement. You have stated in the course of my direct examination: "I had to warn the people at home; I had to tell them that I could not furnish them any vaccine from Cracow."

A. That is stated there.

Q. And this shows what is also contained in these documents, that is, if you recognize the danger clearly, then you must produce more and then you intend to do this through the industry. I, therefore, see in these documents which have been submitted and which I assume you confirm completely --

A. Yes.

Q. -- and which you also recognize as correct today, that I have to ask you the questions now: your worry and your urging for an increase in the production of vaccine, does this mean the necessity of the knowledge how several or individual scientists actually occupied themselves in solving this problem?

A. It has nothing to do with each other.

Q. Now was it shown by your letter and also from the document about the discussion of 29 December 1941 that on this day the typhus research problem was discussed?

A. No, the vaccines were discussed. That is the vaccine situation.

Q. You even claim at this time that a second conference took place on the 29th of December, 1941, in which you did not discuss anything with the circle of the people mentioned in the Ding diary?

A. Yes, I have stated that clearly.

DR. BELTE: Well, I do not have any additional questions. May it please the Tribunal, the witness, Guelfer, can be called at this time.

THE PRESIDENT: The Tribunal has received a certificate from Captain G. J. Russell, Medical Corps, United States Army, stating that in his opinion it would be advisable that the Defendant, Rudolf Randt, be excused from attendance in Court during the balance of this afternoon.

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Defendant Rudolf Brandt will, therefore, be excused from attendance in Court for the balance of this afternoon. The Secretary-General will file the certificate received from Dr. Russell.

The Tribunal will now be in recess for a few minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session. May it please your Honors, Dr. Rudolf Brandt has availed himself of the excuse granted him and is absent for the remainder of the afternoon.

THE PRESIDENT: The Secretary General will note for the record the absence of the defendant Rudolf Brandt pursuant to an excuse. The defendant Handloser has been excused as a witness. The Marshall will summon the witness, Paul Querflor, in behalf of the defendant Handloser.

PAUL QUERFLOR, a witness, took the stand and testified as follows:

JUDGE SEBRING: The witness will raise his right hand and be sworn, repeating after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and conceal nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. MELTZ:

Q. Witness, would you please state your first and last name?

A. Paul Querflor.

Q. When and where were you born?

A. On the 4th of February 1895. Born in Detzlar/Dahn (Detzlar in der Dahn).

Q. Can't you please describe your educational career until the year of 1939?

A. I visited the secondary school and in 1913 made my matriculation. I studied medicine in Göttingen and Berlin, and served as a soldier from August 1914. During the first world war I was a member of the Medical Corps and on the 31st of January 1919 I was discharged as a Feldhilfsarzt. During the war I had my premedical examination and I passed. After the war I ended my studies and in 1929 made my State examination and had my medical profession. At that time

I was active as a practical physician near Weimar, and, in 1925 began a communal district physician which office I held for two years. Then I became the physician at the Institution, a psychiatrist at the Mental Institution at Weimar. I served for eight years, that is until 1935. I then voluntarily volunteered for re-entry into the Wehrmacht since the work in the psychiatric field became very difficult. I could not cope with the currents which at that time prevailed in the psychiatric field and I could not combine them with my medical conception. On 15 April 1935 I entered the Reichswehr. On the first of July of the same year I was transferred to the Luftwaffe, that is to Königsberg in Prussia. I was a troops physician with an anti-aircraft unit. From that, on the first of October 1936, I was transferred to the Medical Inspectorate of the Air Force and I stayed there as an expert. This activity I continued for three years. After the Polish campaign I became air medical officer -- first in Posen, since 15 of July 1940 in Münster. On the first of October 1941 I was transferred to the Medical Inspectorate of the Air Force as Chief of Staff where I was active until the new Agency, Wehrmacht Medical Service was created. From the first of September 1942 I was appointed chief of Staff with the Chief of the Wehrmacht Medical Service. As such I remained until the end of the war.

Q. Then you are the first and only chief of Staff of the Agency Chief of the Wehrmacht Medical Service?

A. Yes. That was my position.

Q. What happened after the capitulation?

A. After the capitulation I was imprisoned and I stayed in imprisonment up to 12 June 1945. I was released from imprisonment by request of the Military Government at Düsseldorf.

Q. What is your activity today?

A. I am now employed as a physician in the Penal Prisons at Cologne.

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Q. In particular I want to ask you what the position of the Chief of the Wehrmacht Medical Service was and how the work and activity was carried out in this agency from the year of 1942 until the end of the war. I have shown you the decrees of 20 July 1942 and the decree of 1944, together with the official regulation, in order to ask you to refresh your memory. At first I should like you to answer the question, on the basis of the decree of 28 August 1942, do you know how this decree came about and I mean this decree of 1942?

A. The creation of the agency, Wehrmacht Medical Service, was caused by the difficulties of the winter of 1941 and 1942. In January, 1942, there were urgent demands from the Army which went to the Navy and Air Forces in order to obtain medical officers. We were mainly concerned with transport difficulties and welfare difficulties in winter.

Q. How was this cause of the creation expressed in the decree?

A. The basic thought in the decree was to use the available personnel and material and use them in a planned fashion. That is, at places where they were most urgently required.

Q. Is that what is called, in the decree, "the material and personnel coordination"?

A. Yes, that is right. Personnel that, for instance, was at one Wehrmacht branch was to be transferred to another Wehrmacht branch which needed them more urgently.

Q. What were the further tasks which were given to the Chief of the Wehrmacht Medical Service?

A. All the medical tasks which occurred simultaneously with all Wehrmacht branches were to be worked upon by one central agency and this was in order to save personnel.

Q. Will you please name occasions where one could speak of mutual matters concerning the entire armed forces? For instance, affairs of troop hygiene which occurred with ground troops and army troops and were the same in both cases?

A. Protective measures, malaria prophylaxis, protective vaccinations

against the various epidemics and, finally, medical education.

Q. How do you understand the decree of 1942, bearing in mind the point of view of the creation of a new agency? Was it an agency which, at the moment of its origination, had a very definite sphere of effectiveness? That is to say, almost automatically came under the authority of the chief of the agency?

A. No, that wasn't the case at all. We were concerned with the question to build up this agency and only gradually to deal with one task after the other.

Q. Did the chief of this agency have a special authority which, in the military way, one can designate as an authority to issue commands?

A. No, he had no military authority to issue orders. In the official regulation, which is not available here, it was expressed that he had the right of directives?

A. The difference is that a superior naturally has authority to issue orders. But you can only speak of the right of giving directives where there is not a relationship of superior and subordinate and, therefore, no authority to issue commands.

Q. Will you please make it clear to the High Tribunal how this was exercised and practiced which enabled the Chief of the Medical Service to solve the problems which he had?

A. It was our task to make it clear to Armed Forces branches whatever was necessary to be done. They had to be convinced and won over so that they could cooperate and that could only be done by discussions and conferences.

Q. Now, if such a task could not be dealt with in this friendly manner, what could the Chief of the Medical Services do?

A. He, on his own initiative, could do nothing further but report the lack of success of his efforts to the Chief of OKW and in this manner would have to bring about an issuance of an order.

Q. Did the Chief of the Wehrmacht Medical Service have any official supervision about the medical service of the Armed Forces branches?

A. No, he did not have that.

Q. Did he have a right to gain information?

A. I cannot tell you exactly whether that was laid down in official regulations but we always assumed that as a matter of course.

Q. How was the relationship to the individual Wehrmacht branches that is, to the medical service of the Armed Forces branches?

A. The attitudes adopted were not always the same. This can be understood by taking into consideration the various tendencies which prevailed among the Armed Forces branches in contrast to the tendency of the Chief of the Wehrmacht Medical Service. The Wehrmacht branches endeavored to give up as little as possible of their rights, while the Chief of the Wehrmacht Medical Service had the task to deal with the actual tasks himself. Naturally, tensions arose from that situation, partly some peculiar situations arose. May I allow me to mention an episode to illustrate: New Year, 1943, the Chief of the Wehrmacht Services wrote a directive to all the 5 Wehrmacht branches where, in a friendly manner and in friendly words, he thanked them for their

cooperation up to the present time and asked all medical offices to continue working in order to help the wounded soldiers. During the course of January we received a letter from the Supreme Commander of the Navy protesting, in polite words, that the Chief of the Wehrmacht Medical Services had thanked his Navy medical officers and wished them a good new year.

Q. What was the relationship to the Waffen-SS, that is, the medical service of the Waffen-SS?

A. Just as little as the other Wehrmacht branches; the Chief of the Wehrmacht Medical Service was the superior of the Waffen-SS. We were never concerned with the entire Waffen-SS. We were always concerned with those branches which were committed with the Wehrmacht, that is to say, fighting front troops.

Q. Shortly, how would you describe the relationship of the Chief of the Wehrmacht Medical Service to the Chiefs of the Medical Services of the other Armed Forces Branches? Try to define it.

A. On the strength of the decree, the Chief of the Wehrmacht Medical Services was elevated above the other Chiefs of the Medical Services. He had to represent the medical services of the entire 3 branches; he had to represent them in front of the civilian health system and towards the medical services of abroad. Furthermore, he had the task to coordinate all mutual problems and deal with them in a unified and planned manner. For this task he had the right of giving directives.

Q. On the strength of the decree of 1942 was the research system in the Wehrmacht branches and the Waffen-SS touched upon?

A. No.

Q. Did you have a department for research in your agency?

A. No. The agency consisted, apart from the departmental chief and myself, of one medical officer of the Navy, one pharmacist of the Army, later a second pharmacist of the Air Force; then there was a registration clerk and a few typists.

Q. Did the Chief of the Wehrmacht Medical Services have any means in order to exercise research work?

A. No. We had no means whatever, we could not expend anything on that.

Q. Was the Chief of the Wehrmacht Medical Services, this Professor Handloser, in his position as Chief of the Wehrmacht Medical Services, in an influential and strong position?

A. No. This was only a beginning which had to be developed.

Q. Wherein lay the strength and the influence which Professor Handloser no doubt had?

A. The influence consisted in his position as Army Medical Inspector, that is, as inspector of the strongest Wehrmacht branch.

Q. Do you know whether, in 1942, an official regulation was called to the decree?

A. Yes, there was an official regulation, but it is not attached here.

Q. We do not know it here up to this point but you, who for years after the official regulation was issued, had worked in that office, would perhaps be able to tell us something about it. Most of all we are interested in the question of research which I mentioned before. In that official regulation was there any mention made of research, research generally, or research with regard to the Wehrmacht branches?

A. In this official regulation, so far as my recollection, there was no such mentioning, because this point was only mentioned in the new official regulation.

Q. The new one?

A. Yes, the one of 1944.

Q. Did the Chief of the Wehrmacht Medical Services have a right of inspection after the official regulation of 1942?

A. No.

Q. Was any inspection ever carried out?

A. Yes, during 1943. Then the Chief of the Wehrmacht Medical Services made an official trip to Italy and, according to my knowledge, inspected installations of the Army and Air Force. Italy was a Wehrmacht district, the Supreme Commander was a Wehrmacht Commander, and the medical officer in charge, in accordance with that, had Wehrmacht functions.

Q. That is to say he was co-ordinated?

A. Yes, and the very same situation prevailed.

Q. Did Professor Lasser at any time inspect an institute of the Wehrmacht Branches?

A. No. According to my knowledge, no.

Q. Do you know the institutes of the Wehrmacht which dealt with research, for instance the Hygiene Institute of Professor Krugowsky?

A. I know none of the institutes of the Wehrmacht.

Q. Did you at any time hear about the institute for Military Science and Research within the Wehrmacht?

A. No, I never heard of that.

Q. This belonged to the General Staff. Did you know Professor Krugowsky?

A. Yes.

Q. Where from?

A. He occasionally attended conferences where the reports of hygienists had to attend in order to deal with questions of troop hygiene.

Q. Did you know whether any questions of research, for instance typhus research, were discussed with him?

A. I cannot say that.

Q. Did you know Dr. Din?

A. No. It is a name that is alien to me.

Q I am sure that you repeatedly spoke to Professor Handloser. During such conversations, be they official or private conversations, was at any time the name of Buchenwald mentioned?

A It was never mentioned during any such conversation or conversations.

Q Were you at any time in a concentration camp?

A Before the capitulation never; only after the capitulation, as an inmate.

Q Do you know the agency of the Reich Research Council?

A Yes, I know about that but I don't know any details about it.

Q Your agency chief of the Wehrmacht Medical Services, did they have an official contact with the Reich Research Council?

A No, we had no official contacts. On the contrary the Chief, Wehrmacht Medical Services, was of the opinion that he actually should have belonged to the Reich Research Council just as the civilian health officer belonged to it, but the efforts he made on that score were rejected.

Q Do you know Generalarzt Dr. Schreiber?

A Yes, I know him.

Q What position did he hold?

A He, at that time, was departmental chief in the Army Medical Inspectorate, department for science and research guidance. After that he became commander of educational group C within the Military Medical Academy, and approximately at the same time he was plenipotentiary of the Reich Research Council for the combat of epidemics.

Q As plenipotentiary of the Reich Research Council for the combat of epidemics, was he subordinated to Professor Handloser?

A No, he had correspondence with him under his own letterhead and used his own printed envelopes.

Q The agency Chief, Wehrmacht Medical Services, did this agency receive reports on research work and assignments?

A Yes, it is possible that we received copies of research assignments.

Q Do you know whether this was the case ever since the beginning; that is, 1942, or whether that only came into effect later?

A According to my recollection this came into effect a little later. I don't remember any definite subject, but I think starting from 1943 this may have come into effect.

Q What was your position as chief of staff of the Wehrmacht Medical Service?

A In the old official regulation it was laid down that I had to represent the chief of the Wehrmacht Medical Services.

Q That is to say, you were the representative. Would you please describe the practical course of dealing with matters within your agency; mail that may have arrived which you had to distribute and which then went to Professor Handloser?

A The mail was delivered to the registration office. The ordinary mail was opened there and registered. Secret matters, top secret matters, were presented to me and opened by me. Then the mail was distributed to the various experts. Part of them were worked up by our little staff and the other part were worked upon by the experts on the armed forces branches. Then, whenever it was necessary discussions were held about these letters and everything was prepared to see that the important matters came to the signature of the chief of the Wehrmacht Medical Services.

Q I am interested in establishing the following thing. Whenever mail came to you and to the departmental chiefs, what was actually presented to the chief of the Wehrmacht Medical Services of that mail and who decided what was to be presented to him?

A Naturally only the most important things could be presented to the chief of Wehrmacht Medical Services, and the departmental chiefs had the task to first present the important matters to me, and then I in turn decided what matters were to be presented to the chief personally.

Q How was the situation when Professor Handloser was not in Berlin, but somewhere outside?

A If there were urgent matters I made a telephonic report to him or he sometimes rang me up and commissioned me to deal with important tasks. There was a daily courier going back and forth so that the important letters could

be sent out and sent back. Less important matters, however, were kept in Berlin up to the time of his presence, were prepared so that he could then make a decision and sign his name. The so-called current matters were dealt with in the Army Medical Inspectorate or in our little staff and were then signed by me by order.

Q Was Professor Handloser frequently in Berlin?

A No, he mostly stayed at the headquarters. Only occasionally did he come to Berlin for just a few days.

Q Witness, I submitted to you the affidavit of Professor Handloser which he submitted to the Tribunal about the working activity and the sphere of the work in the leadership of the Army and Wehrmacht, and I asked you to read the part which referred to the Wehrmacht Medical Services. I asked you to investigate it. So as not to lose myself in too great details, I should like to ask you whether you can say under your oath that the description of Professor Handloser which refers to the agency of the chief of Wehrmacht Medical Services is true and correct?

A I have read the statements with great care, and I can only confirm them.

Q Do you think that the matters which are subject of this trial, matters which you know according to their contents, are important matters if they happened to be subject of a report or any letter which came into your agency?

A Yes, no doubt. Whenever any experiments were ordered and whenever any fatalities had occurred then it would have been an eminently important affair.

Q Could you say with certainty that such a report, such letters, never were presented?

A It was never presented to me.

Q Did you perhaps receive knowledge that a certain matter was sometimes dealt with by circumvention of your person and reported immediately to Dr. Handloser?

A No, that never came to my knowledge, and if that had happened, then I would have done something about it and acted very severely.

Q So basically you would have to know about decisions, reports and letters.

which were important enough so that they had to be presented to Professor Handloser?

A Yes, that was required of me. I never had the impression that Professor Handloser intentionally and knowingly did not inform me.

Q On the 1st of September 1944 a new settlement of the agency chief of Wehrmacht Medical Services came about. What was the intention which lay behind the creation of this new agency?

A It was the difficulty of the work. It made it appear necessary to create a clear relationship of superiority and to arrive at a general authority to issue orders.

Q Did the agency on their own initiative make suggestions about this new settlement of the matter?

A Yes, these suggestions were made by us. The conferences were very long and tedious and I think that the way we see it now constitutes the twelfth or thirteenth draft. These drafts had to be presented to the Wehrmacht branches, to the Waffen SS, to the Commissioner General, to the OKW, operational staff and to the Chief, OKW, and were also submitted to the chief of OKW.

Q What is before you now as the decree of 1944 including the official regulation, is it something that Professor Handloser strove for as chief, Wehrmacht Medical Services?

A No, unfortunately not.

Q What were the misgivings and the objections which led to a change?

A The Luftwaffe understandingly cooperated. The SS made the old well known limitations with reference to their parts and units which were subordinated to the Wehrmacht, and since otherwise they were not concerned at all, was not interested in the further details. The Army submitted a different draft, and the Navy made the strongest objections and did not want to allow the chief of the Wehrmacht Medical Services any right of superiority and as little as possible authority.

Q Did this situation, these rejecting attitudes or rather, were they expressed in the final text?

A. Yes, whoever knows the story can well recognize these points. The clear military concepts of superior and subordinate were left out. The word subordination is not mentioned a single time. Rather, it is mentioned once. That is only with the medical — with the Wehrmacht Chief of Medical Services personally; that is, his subordination under the Chief of OKW. In addition the expression technical authority is used, and furthermore, these technical authorities are limited to the medical chiefs but not to people who were subordinated to them. That is to say, the Chief of the Wehrmacht Medical Services could, for instance, issue an order to the Army Medical Inspector according to Figure 2-4 but he couldn't issue an order to any army group physician or any lower echelon because he is not mentioned under this authority of issuing directives.

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Q. You mean authority to issue technical orders in order to clarify that point?

A. Furthermore, the right of the action was limited. The right to issue orders in emergency situation is mentioned in particular that it is not assumed as a matter of course as it would have been in a case of relationship of superiority. The reservation of the SS was added at the footnote on page 1 as it is cited down there.

Q. Well, would you please read it?

A. Yes, I am going to read it: in the sense of this regulation there belonged to the Wehrmacht, Army, Navy, Luftwaffe, the units of the Waffen-SS subordinate to the Wehrmacht and the units and organizations committed within the framework of the Wehrmacht. The rest contained in the official regulation is a program of future spheres of work which only gradually were to be introduced into the agency?

Q. What was the intended extension of the functions as they are laid down in the text?

A. Certain progress was made. At first the position of the Wehrmacht Medical Services within the military rank was laid down and that by figure I it says there: he has the position of a departmental chief and disciplinary power of punishment according to Code No. 18 and all the authorities of the Commanding General. Thereby a difference was laid down as it prevailed in the case of the Army Medical Inspector who only had the disciplinary position of a Divisional Commander.

Furthermore, definite progress was made in whatever is contained under III, that is, to determine that the right of technical power to a given command was not determined yet. It was only a premise. The right of inspection had been laid down. The right of inspection and the right to issue immediate orders in cases of emergency was laid down but limited.

It also noted that the right of appointing people in higher positions was not limited to the Chief of the Wehrmacht Medical Services, and finally these fields of medical services were mentioned where such tasks were listed.

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which concerned all the Wehrmacht branches and which could be settled by the Chief of the Wehrmacht Medical Services. Such a list was completed.

Q. Now the Tribunal, I am sure, is interested in what can be understood under the concept technical authority to issue orders.

A. According to my opinion, that has to be understood literally, quite literally. It is the right to issue orders in the fields of the Medical Service.

Q. Will you please clarify that point practically?

A. As far as the expression itself goes, this expression does not originate from our office. I think it was first used in the Wehrmacht Operational Staff in order to help the Navy. A technical superior would have been a very clear concept, a concept which is used in the case of many official regulations, for instance, the Disciplinary Penal Code or the Army Medical Regulation, Quarter Master Regulation of the Air Force. That is, this expression does not mean to convey or rather conveys less than the expression of technical superior. But is even different, then this official regulation would not have to list various authorities which are quite a matter of course for a technical superior.

So one can only say that with reference to the medical fields which are listed in the official regulation, orders could be issued if we are concerned with matters of the Chief of the Wehrmacht Medical Services, that is to say, such matters which concerned all three Wehrmacht branches.

Q. We previously discussed a question about the situation will be if the Chief of the Wehrmacht branches will not follow any such directive, and in order to clarify that point, I just ask what will the situation be if a branch of the Wehrmacht would refuse to submit to itself to this order in technical matters?

A. The Chief of the Wehrmacht Medical Services could not on his own initiative and himself penalize this official order. If the Chief of the OKW was not the superior of the three Wehrmacht branches, the Chief of the Wehrmacht Medical Services, as only a part of this agency, could just as little

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penalizing any medical chief of any command of the Armed Forces Branch.

In the case of refusal of obedience of an order, the Chief of the Wehrmacht Medical Services would have to report this medical chief to his immediate superior in order to cause a punishment, a punishment which would be because of the non-obeyance of a technical order. From this situation alone we can see how difficult this would have been in practice.

Q. Did any research institute of the Wehrmacht branches ever come to a subordination? In this Decree of 1944 you see a passage -- I think it is II --

A. Yes, I remember that research was mentioned, but I never came to a subordination of the research institutes.

Q. Did the relationship, the official relationship to the Medical Service of the Waffen-SS change at all through the Decree of 1944?

A. No. It was always limited to those units which were committed at the front.

Q. How in practice was the relationship of the Medical Service of the Waffen-SS?

A. I already said that the Waffen-SS was not very interested, and in spite of a request did not give us any collaborators in our working staff. I remember one incident that the SS did not follow an order which requested them to list all the material at their disposal.

Q. In order to complete the picture, I should like to ask you whether the relationship to the research institutes and the relationship to the Waffen-SS changed in the year of 1944?

A. No, it did not change.

Q. Why not?

A. Because the units were subordinated to the Wehrmacht in the front and the institutes.

Q. Did the Decree of 1944 -- was it really effective up to the end of the war to its full extent?

A. No, not at all. When the working staff was built up, it took quite some considerable time. A few fields were taken over by the Chief of the

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Lehrmacht Medical Services, for instance, the medical welfare and care, the matter of voluntary nursing, the central dealing with medical supply of all kinds, partly medical matters concerned with the prisoner-of-war system, but that is something that we again lost at a later date because the prisoner-of-war system went over from the OK to the Reserve Army. The further up-building was disturbed by the fact that the agencies with which we had to be in constant touch were evacuated from Berlin, and finally we ourselves had to evacuate our agency to Thuringia in February, 1945. The difficult lines of communication and the difficulties in telephoning people made any connection with these agencies completely impossible. The staff of the agency was very busy with trying to cure the wounded and sick who always tried to stream towards the heart of Germany from its various corners, and for this all the time new hospitals had to be created and searched for, and in addition to that, we had to care for the civilian population because all of Germany had become a war territory.

THE PRESIDENT: The Tribunal will now recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 15 February 1947 at 0930 hours.)

Official transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nuernberg, Germany, on 19 February 1947, 0930, Justice Reals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats. The Honorable, the Judges of Military Tribunal 1. Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in the court.

THE MARSHAL: May it please your Honors, all defendants are present in the court.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in court.

It appears to the Tribunal that Tribunal Number 2, which is now in session trying Case No. 2, desires the presence of the defendant Rudolf Brandt as a witness before that Tribunal this morning. The defendant Rudolf Brandt will be excused this morning at the opening of the morning recess and in view of the certificate filed by the prison physician yesterday defendant Brandt will be excused from further attendance before this Tribunal for the balance of this day.

Counsel may proceed with the examination of the witness on the stand.

DR. PAUL WURFLER - Resumed

DIRECT EXAMINATION (continued)

THE PRESIDENT: The witness on the stand is reminded that he is still under oath.

BY DR. NALTE:

Q. Witness, during your examination yesterday you answered the question in the negative which was to the effect that the agency of the Chief of the Wehrmacht Medical Services had authority to give orders with reference to the research system of the individual branches of the Wehrmacht and Waffen SS, is that correct?

A. Yes.



Q. In supplementation I have to ask you, did the office of the chief of Wehrmacht Medical Services have any official supervision?

A. No, not in accordance to that.

Q. Now, in this connection I must show you a document which was submitted by the prosecution here yesterday. This is a letter coming from Robert Koch Institute on the 21st of January 1943. This Document NO 1316. In this letter it says regarding typhus vaccines for armed forces, "The Chief of the Medical Wehrmacht Services, according to the letter of the 11th of January of this year which I am attaching in copy, has approached the cities which are producing typhus vaccines and asked them not to send this vaccine to the individual branches of the Wehrmacht and so on, but only to the Chief of the Wehrmacht Medical Services or to his plenipotentiary." What is your attitude to this letter?

A. The letter that you just quoted from the Chief of the Wehrmacht Medical Services is really a part taken out of a larger frame and it deals with central distribution of products. The material coordination was only possible when all the needs of the Wehrmacht branches were directed to the Chief of the Wehrmacht Medical Services. It was necessary that from this agency the necessary distribution had to result. In order to gain a survey about what was available any buying of quantity on the part of the Wehrmacht branches had to be stopped. That is why the Ministry of Economics and the Ministry of Armament had to approach the industries which were producing medical equipment and had to issue a decree that such orders were only to be executed when they emanated from the Chief Medical Supply Office, the office which was working on these matters for us. All other orders had to be sent to the Chief of the Wehrmacht Medical Services for investigation and they did not have the authority to deliver upon them. In order to distribute the vaccines in a just manner, that is, according to the urgency and the need of the Wehrmacht branches, was really the purpose of the letter that you just mentioned.

Q. It can be seen from that that it was one of the tasks of the Chief of the Wehrmacht Medical Services to distribute materials. That includes vaccines.

A. Yes.

Q. On the strength of that do you know the cities where productions came from, that is, the factories?

A. Yes, they were known to the Chief Medical Supply Office.

Q. Do you know whether among these suppliers, excepting private industry or army institutes, that is, Cracow, there were any SS institutes?

A. I know nothing of that.

Q. This right of distribution and the relationship of the suppliers to the Chief Medical Supply Office contained the authority to control the suppliers, that is to say, the factories?

A. No, we only had to check on the production, the amount of the production.

Q. I ask whether you, yourself, or representatives of yours were active in this work. For instance, I.G. Farben could send people there in order to control how they went about producing vaccines?

A. No, we had no right of control.

Q. So, I understand you correctly if I say that these measures of getting the vaccines in order to distribute them justly is one of the typical cases which the Chief of the Wehrmacht Medical Services had; namely, to distribute this vaccine mutually for all Wehrmacht branches?

A. Yes, this concept is quite correct.

Q. Does this manner of your activity relate at all to the research systems?

A. No, this was a measure of supply.

Q. With reference to a question which the prosecutor presented here yesterday during the cross examination, I have to ask you: The Chief of the Wehrmacht Medical Services as such, did he have any authority with reference to the installation of works for typhus vaccines?

A. Basically, no. Here we were also concerned with the question of the release of personnel and the urgency of getting material and these were the things that we were approached about by the firms. Whenever we had any personnel available among other medical personnel, we could, of course, release them and we could sponsor any urgency request on the part of the industries.

Q. Well, then, is it correct to say that you - that is, the Chief of Wehrmacht Medical Services - had no decision over the question when such a factory was to be erected, but that you only had to be listened to since medical service questions were touched upon?

A. He had no right of authority and he did not have to be heard under all circumstances. When the firms wished, they could do these things on their own initiative, but they needed our assistance and they wanted our assistance and we could sponsor their wishes.

Q. Could this procedure extend to institutes in the framework of the Wehrmacht branches?

A. That would have been a circumvention because the Wehrmacht branches

were really independent. They had their own contingent of material.

Q. In a special case the matter seems to have been different. It was laid down in a letter on the part of the Medical Inspectorate of the air for that in the case of an institute which belonged to this branch of the Chief the Wehrmacht Medical Services had to be heard. Did you ever hear of any such procedure?

A. I remember no concrete case.

Q. I am speaking about this special case.

A. No, I do not remember such an application. Of course, when the Wehrmacht needed our assistance, then, of course, they approached us.

Q. You mean only that?

A. Yes, only that.

Q. Did you attend the meetings of the consulting physicians?

A. Yes, I attended them in 1942, in the spring of 1943, and the spring of 1944.

Q. In May 1943 a lecture was held by Dr. Ding with reference to typhus. Did you listen to this lecture?

A. No, I did not hear it and I do not know his name. I have no imagination about it whatsoever.

Q. During that speech an incident occurred. Professor Rose uttered some misgivings and I am asking you, do you know officially or personally, I mean during the recesses or during the evenings or whenever the participants gathered, that any such protest was made by Professor Rose?

A. Nothing ever became known to me about that protest.

Q. Do you know whether Professor Handloser directly received any report about that?

A. No, I know nothing about it.

Q. During that same meeting did you listen to the lecture of Professor Gebhardt and Fischer? It was a lecture about special experiments with reference to sulphonamide.

A. I did not listen to that lecture because I was interested in lectures regarding psychiatry.

Q. Did you ever gain any knowledge official or unofficially of this lecture which attracted attention?

A. No, nothing is known to me of that.

Q. Didn't Professor Handloser speak to you after this lecture and discuss this matter with you?

A. No, that was not the case.

Q. Do you know whether from any side complaints were made with your agency about the contents of this lecture?

A. No, according to my knowledge no such complaints were made.

Q. Do you still remember what the situation was in the Medical Inspectorate during the middle of May, that is, shortly before these lectures?

A. Yes, the situation was very tense. In January we had these losses Stalingrad and in April we had severe losses near Tunis. We could - I mean, the Medical Service of the entire Wehrmacht considerable physicians were lost. According to my recollection we lost 400 in Stalingrad and about 300-350 in Africa and we had great worry about getting substitutes for them. We had to take physicians away from the civilian sector if we wanted them.

Q. So that was a time of great worry for the Chief of the Wehrmacht Medical Services?

A. Yes, no doubt.

Q. And, his time was taken up to a considerable degree in order to carry through measures which would lead to the dealing with these emergency situations. Were the manuscripts of the lectures shown to the Chief of the Wehrmacht Medical Services - the manuscripts of the lectures during these meetings?

A. No, that was not the case.

Q. Were they presented to him afterwards?

A. No, they were not presented to him afterwards.

Q. Who worked on these lectures?

A. That belonged to the Department of Science and Health at the Medical Inspectorate and they had to go to great efforts to get all these manuscripts after the lectures were held.

Q. Now, one final question. For many years you were a collaborator of

the Chief of the Wehrmacht Medical Services. Although you were his subordinate, I think I can put the question to you in this connection and I think I have to put the question to you. What is your judgment of Professor Handloser? That is to say, whether from a medical or ethical point of view, do you think him capable of any bad action?

A. Doctor, you will understand that it is difficult for me to make any judgment in the presence of the public and in the presence of my superior but since it has to be I can only say the following: I know Professor Handloser is a warm person with deep feelings, a man who has great faith in his friend and has a very humane way of thinking. I know him as a faithful Catholic Christian who I think utterly incapable to have committed the crimes of which he is here charged. I know him as an educated, skillfully educated physician who always maintained a high level of sciences and who always had interest in the welfare of his sick and wounded, and also had a high ethical concept of his profession. He is an energetic upright soldier with a high sense of honor and duty. On the whole he is a man who because of his medical and humane values was respected by his medical officers, by civilian physicians, including the scientific representatives, and by all physicians abroad who knew him. His position as a high medical officer he gained because of his efficiency. He gained it during a clean military career and he does not have to thank this position to some political machinations.

DR. KELTE: I thank you. Mr. President, I have no further questions to put to this witness.

THE PRESIDENT: Is there any cross examination of this witness on the part of any defence counsel?

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DR. FLENG: COUNSEL FOR THE Defendant, Brugowsky.

BY DR. FLENG:

Q. Witness, you stated yesterday that the Chief of the Wehrmacht Medical Service kept his staff very small, intentionally small. Did the Chief of the Wehrmacht Medical Service in his sphere of work give orders to the Army Medical Inspectorate when his staff had no expert for the questions which may have come up?

A. Yes, that is correct.

Q. Whenever that occurred, to whom was such a representative responsible for the problems with which he had to be commissioned? Was he responsible to the Chief of the Wehrmacht Medical Service from whom he received the order or was he responsible to his real chief, the Army Medical Inspector?

A. He was responsible to the man who gave him the order, that is, the Chief of the Wehrmacht Medical Service, yes.

Q. Such a man would have to make reports. Were these reports sent to his own Chief, the Army Medical Inspector or were they sent to the Chief of the Wehrmacht Medical Service?

A. The reports went to the Chief Staff of the Army Medical Inspectorate, to me as Chief of Staff of the Wehrmacht Medical Service.

DR. FLENG: Thank you. I have no further questions.

THE PRESIDENT: Is there any further cross examination of this witness, on the part of any defense counsel? There being none, the Prosecution may cross examine the witness.

CROSS EXAMINATION

BY MR. HARDY:

Q. Witness, you have testified here in direct examination that the reason for the Wehrer Decree of 1942 was to preserve personnel, material, and so forth. Now I ask you --

INTERPRETER: The witness hasn't heard your question.

BY MR. HARDY:

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Q. I said, you have testified here on direct examination that the basis reason for the Fuehrer Decree of 1942 was to preserve personnel and material?

A. Yes, I ask you to repeat the question once more?

Q. During the course of your direct examination by defense counsel you have testified that the reason behind the issuance of the Fuehrer Decree of 28 July 1942, was to preserve personnel and material by way of proper coordination. Now, I ask you, isn't the utilization of material and personnel in the field of medical research a common problem of all branches of the Wehrmacht, which required a coordinated and planned action?

A. In the decree of 1942, the official regulation of research was not mentioned at all in the tasks for the Chief of the Wehrmacht Medical Service. Consequently, we could not deal with it.

Q. Isn't it true, Doctor, that the Wehrmacht had various research tasks being performed where personnel and material were being used in the course of this research work, whatever it may be, isn't it true, that the problem did exist of coordinating the work so that you would not have a duplication of effort and so that you could carry out the basic purpose of this decree, that is, to preserve personnel and material?

A. The Prosecutor is right in as far as such an aim would have been highly desirable, and that is why in the new regulation of 1944, we included this subject in the official regulation.

Q. Now, you stated that the office of the Chief of the Medical Service of the Wehrmacht was quite small. Perhaps, it could not be concerned with coordinating medical research. Now, didn't Handloser have all facilities of the Army Medical Inspectorate at his disposal for that purpose, and didn't he in fact accomplish coordination of the medical research to the last degree through these institutions you referred to, of the consulting physicians at the Military Medical Academy?

A. At the meeting of the Military Medical Academy this was dealt with by the medical senate of the Army and by the scientific senate of the Army, and the Inspectors of the other Wehrmacht branches were invited to these meet-

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but you cannot call it a regulation of the coordination of research.

Q. Well now Handloser did in fact have the facilities of the Army Medical Inspectorate at his disposal, did he not?

A. Yes, he did.

Q. Then it would be incorrect to state that the facilities at his disposal as Chief of the Wehrmacht Medical Services were small?

A. Would you repeat the last part of your question?

Q. I said it would be incorrect to state that the Chief of the Medical Services of the Wehrmacht had little or nothing to do with it, in so far as medical research is concerned, inasmuch as Handloser had all facilities of the Medical Inspectorate at his disposal?

A. He only had the installations of the Army in his capacity as Army medical inspector.

Q. The Army was the largest branch of the Wehrmacht, was it not?

A. Yes, it was the largest branch of the Wehrmacht.

Q. Now you said, Doctor, that the Chief of the Medical Service of the Wehrmacht - you have testified here, Doctor, that the Chief of the Medical Service of the Wehrmacht received research assignments from the branches of the Wehrmacht from 1943 on. Who directed that that procedure be followed? Did you hear my question.

A. I said yesterday that approximately starting from 1943, copies of the reports of the Wehrmacht branches about research assignments were sent to the Chief of the Wehrmacht Medical Service for his acknowledgment.

Q. Who directed that these reports be sent to the Office of the Chief of the Medical Service of the Wehrmacht?

A. This was done voluntarily without being asked for by the Chief of the Wehrmacht Medical Service.

Q. Well, now, Doctor, what was the purpose of Handloser's office receiving these reports of research work?

A. I said they were copies. The Luftwaffe, for instance, sent the ri

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to the Department of Science and Research with the Commissioner General, and they probably tell themselves that if they are going to report this to the Commissioner General, it maybe advisable that the Chief of the Wehrmacht Medical Service receive a copy too.

Q. Who was this Commissioner General you refer to?

A. The Commissioner General for the Medical and Health Service, Professor Brandt.

Q. Did Handloser's office ever receive any reports on medical experiments?

A. I don't know about that? I only know about these copies that I mentioned yesterday.

Q. Then you would state that in the course of your official duties you never became aware of any medical experiments on human beings in concentration camps?

A. No, none at all.

Q. Doctor, if I understood you correctly, when Dr. Helte was interrogated you in connection with your biographical data, weren't you first chief of the staff of the Medical Service to the Luftwaffe, that is, from the 1st of October 1941, until 1 September 1942, isn't that correct?

A. Your figures are not quite right, from the 1st of October 1941, until the 31 of August, 1942, I was Chief of the Staff with the Medical Inspector of the Luftwaffe.

Q. Who was Medical Inspector of the Luftwaffe at that time, doctor?

A. Generaloberstabsarzt Hippke.

Q. Now in your capacity as Chief of Staff to Hippke, I assume your duties were similar to those as Chief of Staff to Handloser in his capacity as Chief of the Medical Service of the Wehrmacht, in that anything that Hippke would have had knowledge of, you would have knowledge of, is that true?

Q. No, this isn't quite correct, Mr. Prosecutor. There was a great deal of difference in the cooperation between Generaloberarzt Wipke and Professor Handloser, whereas according to my knowledge he was always informed by Professor Handloser about his important decisions, no such information was given by Professor Wipke. He acted very independently and the work was made difficult since he did not inform his collaborators sufficiently.

Q Now, during the course of your duties as Chief of Staff to Hiram, were you ever cognizant of the fact that experimentation was being conducted on concentration camp inmates?

Q No, never. Up to this trial I didn't know any such experiments were carried through in

Q Now certainly must have known Dr. Barker, a Luftwaffe doctor, didn't you?

Q I didn't know W. Rasler, but from the newspapers
as I hear his name once more.

Q I've never met Mr. Barker personally?

11. Once I met him personally when I was recruited. He
was then concerned about the preparation of a conference at
the Secretary of State. I forgot the name.

Q Did you know Dr. Barker, the defendant here in this case?

Q. Yes, I knew Dr. Ruckner from the newspapers before the time when he was a collaborator of Dr. Ruff.

Q. You also know Dr. Olson, is that right?

1. Yes, I know Dr. Volts too from the meetings.

Q Doctor, did you ever hear of the high altitude ex-

1. You mean high altitude experiments with living beings in concentration camps?

Q Precisely.

A I haven't heard anything of them.

Q A few moments ago you mentioned that you met Dr. Rasker during the course of planning or preparing such a meeting at the Secretary of State's office; that is Secretary of State Welch, is it not?

A Yes, Secretary of State Welch.

Q Do you remember what day or the exact date of this meeting between you and Rasker?

A I was reminded of the date by the question of defense counsel, but I really didn't know the date before, but I remember the incident once more.

Q Well, now, Doctor, what took place at that meeting?

A Well, the meeting should have taken place, and I shall picture the event as it was. That was in September 1942. At the 1st of September I was transferred to the Chief of the Volkrecht Medical Service. Since my successor had to be trained, and since at that time Generaloberarzt Wirth had to go on leave, I was periodically still active in the Luftwaffe Inspectorate. From this time I remember that I was suddenly called away from my work because of a telephone call. I don't know who called me. I was so reported to the Secretary of State for the purpose of a discussion. This discussion had been originated from the Medical Inspectorate, but was ordered by the Secretary of State. I went there by car, that is from my apartment to the Aviation Ministry, and in the corridor before the office of the Secretary of State I met a few of my acquaintances, and some people I didn't know, and among the people I met I think Dr. Rasker was present.

Q Dr. Rasker was all by himself?

A I wanted to say Dr. Rasker.

Q Dr. Rasker and Dr. Rasker together?

A. No, I don't know Dr. Rasker, I don't know. I asked what was this about, and I learned that a certain Dr. Rasker was to make a report. No further details were given to me. The beginning of that meeting was postponed since the State Secretary didn't appear when he was expected. Since I was taken out of my work, my double work, I became very impatient and I asked Dr. Rasker, what I hadn't known before, for the information of what this whole thing was about. Dr. Rasker refused to give me any information, and he said that he had a special order by the Secretary of State. Because of the fact a higher medical officer refused to give me that information I was very angry and left this group, and I said something of that nature, "if you have any secrets deal with them yourself." Upon that I returned to my office.

Q. In the course of Rasker's report did you hear it mentioned that a film was to be shown?

A. Yes, a film may have been mentioned.

Q. Did you see that film, Doctor?

A. I don't remember having seen the film, because I left before the entire thing started.

Q. Was Dr. Benzion or there, is that a familiar name to you?

A. Dr. Benzion or, oh, yes, I know him from aviation medicine.

Q. Is the name D-e-r-i-n-, D-rin familiar to you?

A. No, I don't know him.

Q. Is the name V-e-r-a-l-, V-e-r-a-l- familiar to you?

A. No, I don't know him.

Q. Is the name Christensen familiar to you?

A. Yes, I know the name.

Q. Doctor, I want you to think, are you sure you didn't see that film in the RM?

A. I am quite sure, because up to this point I saw no films at all which were made in the concentration camps.

Q. No, Doctor, I have here a document which I shall read to you; I don't have the German, for the benefit of the translators. This is Document, NO 224, which has been previously admitted into evidence as Prosecution Exhibit No. 76. This is a document signed by the Defendant, Dr. Rosenberg. It is a report of the September 11th meeting in 1942, concerning a report which was to be submitted to the Secretary of State Hilch on that date. I will read the report, Doctor. "On September 11, 1942--" Do you remember now, were you present while any film was being shown, Doctor? Do I have to dispense with reading the document?

A. I ask you to read the document.

Q. "On September 11, 1942 at 9:45 o'clock Staatsrat Dr. Bacher and Dr. Rosenberg met, according to telephonic and oral agreements, with Col. Penzle, in the ante-chamber of the Secretary of State. We were informed that the Secretary of State had ordered this conference at the present time, in the course of which a report on experiments concerning "rescue from great heights" was to be made, and the motion picture concerning these experiments was to be shown. The gentlemen waiting in the ante-chamber of the Secretary of State and in the corridor (most of them are the experimental staff) were informed that previous to the conference a motion picture was to be shown, so that all went to the motion picture room on the 5th floor. Here quite a large number of people were already present, so that 30 to 40 persons were there in all. Among them were - we know some of them personally - some officers, medical and engineering officers, whose presence surprised us in view of the top secret nature of the motion picture and of the experiments. No checking of the persons present was

done, nor was there an attendance list. As after a short time of waiting, the Secretary of State had not come the motion picture was shown, without giving us an opportunity for preliminary or explanatory remarks. During the intermission between the two parts of the motion picture, Dr. Becker referred once more to the strict obligation of secrecy ordered by the Reichsfuehrer SS. After completion of the showing of the motion picture - the Secretary of State had not come, as he had been summoned to the Reich Marshal - the persons present still talked a little while about the motion picture, in which occasion less interest was shown in the subject itself than in the slips of the apparatus and the individuals who had been summoned into it. After this period of time, during which we were neither called upon to make any statements whatsoever, nor were we, considering the past form and the absence of the Secretary of State, inclined to give any reports, the foremost part of those present went back to the development conference while Oberstarstueberflor, -- that is a familiar name, isn't it? -- Oberstarst Prof. Falk, Oberstarst Bruchl and Government Councillor Bonneren asked us for a report in a small official circle. As, however, the Secretary of State had prohibited any report previous to the final distribution, we refused to disclose the results of the experiments. Oberstarst Falk stated that he was willing to report to the Secretary of State our wishes concerning the time of distribution and the continuation of the experiments. The motion picture film was then taken to General Verall.

"According to the conference with Oberstarst Bruchl and Oberstarst Falk --"

I don't think it is necessary to read any further. This is signed by Dr. Becker. Now, Becker, do you still say you didn't see this film in the MEMO?

Q I don't remember having seen it. What I stated before happened before that time.

Q Did you, as a matter of fact, after having seen that film join a circle with Dr. Benzinger and several others discussing the merits of the film?

A No. I left this room in anger, as I said before.

Q Despite this report here of Dr. Reuben, you say having seen the film, Doctor?

A I haven't seen the film.

MR. HALEY: I have no further questions.

A Yes, naturally.

Q Did not these chiefs of staff see to it that the interests of the two agencies were divided from one another?

A Yes, they saw that a very clear division was made and the tendency of both up to a certain point were contrary to each agency.

Q Yes, you said that yesterday. Am I correct if I say there was even tension between these two agencies working in the same building?

A Yes you can call them official tensions even if they did not have any personal effect.

Q Now, at the end, I should like to ask you with reference to Mr. Hardy's question; is it true that you went to the meeting at the Aviation Ministry in your capacity as Chief of Staff of Medical Service of the Air Force?

A Yes, that is where the tension was on power and authority; as I was not the chief any longer.

Q But, you were still practically the chief and you were not yet working with Professor Handloser since he only came from the

A Yes, naturally.

Q Did not these chiefs of staff see to it that the interests of the two agencies were divided from one another?

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A Yes, that is where the tension was on power and authority; as I was not the chief any longer.

Q But, you were still practically the chief and you were not yet working with Professor Handloser since he only came from the

Ukraine at the end of September in order to start his office; is that correct

A. Yes, that is correct, as far as the person of Professor Handloser is concerned; but I partly already worked at the new office.

Q. For the purpose of training--

A. I also had to train my collaborators and successors.

Q. Did you inform Professor Handloser about this matter at the Aviation Ministry?

A. No, certainly not - not at all. This was just a matter which came up suddenly and then disappeared.

BY DR. KRAUSS: (Counsel for the Defendant Rostock.)

Q. Witness, you stated that the individual Wehrmacht branches received copies of the research assignments, which they had delivered, or rather sent them to the Chief of the Wehrmacht Medical Service and that the original of these research assignments was sent to the Department of Science and Research. Witness, I am now asking you is it not a fact that the original of any research assignments went to the research worker concerned and that the Department of Science and Research only received a copy of these assignments; how is it that you have a different knowledge than that?

A. I must correct my statements that I made before; what you say is correct. The original was certainly sent to the man concerned, the man to whom the work was assigned; this means that the Department itself received a copy and we received another.

Q. Thank you, I have no further questions.

BY DR. MARX: (Counsel for the Defendant Dr. Becker-Freysing.)

Q. Witness, you stated before that during a certain period of time you were Chief of staff with the Medical Inspector of the Air Force, that was from the first of October, 1941 until the 31st of August in 1942; I will now ask you who was directly subordinate to you in your position?

A. There were two department chiefs; one chief of the Medical Inspectorat Generalarzt Marzius, and the chief of the Organizational Department, Oberleutnantarzt Liebermann and there was an independent group of pharmacists, there was a domestic group and a registration group and I think that is all.

Q. What position did the Defendant Dr. Becker-Freysing hold at that time with the Inspector of the Air Force.

A. Dr. Becker-Freysing was the advisory counsel for aviation medicine.

Q. And who was the real departmental expert for aviation medicine?

A. I think it was Stabsarzt Professor Antoni that was with the Medical Department.

Q. I now come back to this conference of 11 September, 1942; did you speak to Dr. Becker-Freysing about this affair?

A. No, certainly not, since any information was refused to me, I had no idea that I could speak to him about.

Q. You say that you know nothing about high altitude experiments, which were carried out by Dr. Rascher and Dr. Rascher?

A. No, I had no knowledge of that at all.

Q. Didn't Professor Hippike tell you anything about that?

A. No, Professor Hippike told me nothing about it.

Q. Did Dr. Becker-Freysing, in his capacity as advisory counsel for Aviation Medicine, send you any letters for decision or signature, or did he present any reports to you about the execution of any such experiments in Dachau?

A. The question is already answered by my previous answer to your last question, but I will repeat that I never received such reports and such matters were never presented to me by Dr. Becker-Freysing.

Q. Yes, witness, that is correct, but it could be possible that you heard something by way of a report or lecture?

A. No, that is not correct.

Q. Did anything become known to you about cold experiments, which were carried out by Dr. Rascher and Professor Holzboehner in the concentration camp at Dachau?

A. No, I know nothing about that.

Q. But you were present during that meeting in 1942; were you not, in Munich?

A. No, I was not.

Q You were only present during this meeting of the consulting physicians?

A But that occurred much later.

Q But I mean this meeting in Hamburg. Were you present?

A No, I was not.

Q Did you speak to Hippke about this question regarding H. Malachuk and Rascher, or did Hippke speak to you?

A No, never.

Q Was the name of Rascher ever mentioned between you and your chief after September, 1942?

A I am just telling you that at first the name was unknown to me. It was not mentioned after that, and I forgot about it entirely until I was asked about it again, and only by reading the press it came back to my memory very slowly.

Q So this was really a very important affair for you?

A Yes.

DR. HARRIS: Thank you. I have no further questions.

THE PRESIDENT: Any further examination of this witness?

MR. HARRY: I have no further questions to put to this witness, Your Honor.

THE PRESIDENT: The witness Paul Warfleier may be excused, there being no further examination of this witness.

Does counsel for defendant Handloser desire that Dr. Bernhard Schmidt be called as a witness?

The marshal will bring in Bernhard Schmidt, a witness for defendant Handloser.

BERNHARD SCHMIDT, a witness, took the stand and testified as follows:

JUDGE SIERRING: Raise your right hand and be sworn, repeating after me: I swear by God, the Almighty and Omnipotent, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SIERRING: You may be seated.

DIRECT EXAMINATION

BY DR. HELT (Counsel for Defendant Handloser):

Q Witness, would you please state your first and surname?

A Dr. Bernhard Schmidt.

Q Would you please pause between my question and your answer and try to speak slowly so as to enable the interpreters to keep up. Where were you born and when?

A I was born on the 20th of May, 1906, in Magdeburg.

Q Would you please describe your educational career very shortly?

A I first went to elementary school in Berlin. Then from 1913 to 1925 I was in Mainz. I was educated at the secondary school there. I made my matriculation in 1925 in Mainz. Then I studied medicine and natural history in Giessen, Kreisshaltung in Munich. I made my state examination in medicine in the year 1932 in Munich. Afterwards I made my doctor examination and then in 1928 I entered the Reichsarmer at that time as a student. I had more medical education in the army hospital in Stettin in 1932. That was up until 1934. From 1934 to 1936 I went to Koenigsberg. In 1936, that is from 1936 to 1939, I received education as a hygienist at the University of Goettingen. In the meantime I was detailed for half a year to Japan and China as medical officer. In 1939 I was a hygienist at Munster, Westphalia. From the beginning of the war I was assigned as an army hygienist. That was from 1939 to 1940. In 1940 I was directly assigned to the army physician for about eight weeks as a hygienist. From 1940 to 1944 I became a hygienist with the Army Medical Inspectorate at Berlin, and from the fall of 1944 I was assigned to the front as hygienist and consulting hygienist. I was assigned to the Balkans for a short period of time. From December, 1944, I was imprisoned by the Americans. As a prisoner-of-war I was for one year the chief of a general hospital for German P.W.'s in France, and at the end of March I was released from prisoner-of-war activity. Since October of last year I was active at the University of Frankfurt as departmental chief with the Hygiene Institute and lecturer for hygiene and bacteriology. I must add that from 1939 to 1940 I made my additional examination and entered the

university and was nominated as a lecturer.

Q Then you were within the sphere of office of Professor Handloser from 1940 to 1944?

A Yes, that is correct.

Q What positions did you hold in the Army Medical Inspectorate?

A I was a hygienist in the Army Medical Inspectorate and group leader in the Department of Science and Health Guidance.

Q What was your department?

A I represented the department of hygiene.

Q Would you please picture to the Tribunal your sphere of work as a hygienist in that department.

A I had to deal with all questions which referred to the sphere of hygiene. For instance, nourishment, housing, hygiene accommodations, clothing, combat of epidemics; then the equipment of the bacteriological testing station, scientific questions in the sphere of bacteriology and serology. I did not have to deal with questions of tropical medicine and prisoner-of-war medicine, in which there were special departments.

Q What was the relationship of your department to the institutes of the Army and the other Wehrmacht branches?

A We had a few institutes of the Army with which we were in connection. For instance, the Military Medical Academy, the Institute for Typhus and Virus Research in Graz, then the Army Mountain Troop School in St. Johann.

Q Was there any official relationship to institutes of the SS and Waffen SS?

A No.

Q Did you know the Hygiene Institute of the Waffen SS?

A I knew that such an institute existed, but I did not know it.

Q You mean you had no direct official connections to that institute? But you knew Professor Bruggewsky?

A Yes.

Q When and at what occasion was there any contact between Professor Bruggewsky and your agency?

A A number of SS formations were subordinated to the army at the front, and therefore questions arose occasionally which concerned these formations which were subordinated to the army, that is, a question of nourishment, combat of epidemics, housing, etc. These were the same questions which concerned us, too, and that was only concerned with units of the SS subordinate to the army.

Q Do you know the Institute for Military Science with the Almoner's?

A No, I don't even know the name.

Q Do you know the Institute for Virus and Typhus Research at Duchowald?

A No, I don't know that any such institute existed.

Q Now what was the situation regarding the question of typhus--typhus which played a particular part in the combat of epidemics? That is one of the concerns that you had. Do you know from the end of 1941 anything which deals with conferences regarding the typhus questions, or did you yourself deal with such conferences?

A Around that time we generally had great concern regarding the vaccine production. We had our own institute, the Typhus Institute at Gracov, which was producing vaccines for us. But in addition, we had to furnish vaccines to other Wehrmacht branches. We received only relatively small amounts of vaccines from industry, and that was the Bearing Works at Harburg. We received some from the state institute for experimental therapy at Frankfurt-on-the-Main, but these amounts were not large enough to suffice for all branches of the Wehrmacht. Therefore we were discussing increase of production on frequent occasions.

We only used vaccines which were known to us to be effective. In spite of the emergency situation, we rejected a vaccine which was not recognized to be sufficiently effective on the basis of a state investigation. There was one vaccine which came from the Behring Works.

Q. What was the substance of this vaccine?

A. It was a chicken-egg vaccine. Another procedure was carried out and the entire embryo was used. Because of the use of the entire embryo, there is a larger amount of vaccine available. If this vaccine had been valid, we would have brought about an increased production. Unfortunately, that was not the case.

Q. Do I understand you correctly when you say the Behring Works at Hamburg had sent typhus vaccine from chicken eggs to the Army?

A. Yes.

Q. In this case you refused the offer of delivery because the typhus vaccine was not effective?

A. No, not sufficiently effective.

Q. How did you find that out?

THE PRESIDENT: Counsel, it is now 11 o'clock. The Tribunal will be in recess for a short time.

THE MARSHAL: Tribunal Number 1 is in recess for fifteen minutes.

(A short recess was taken)

THE MARSHAL: The Tribunal is again in session. May it please Your Honor, the defendant Rudolf Brandt, having been excused by the Tribunal, is absent for the balance of the day.

THE PRESIDENT: The Secretary General will note for the record the absence of the defendant Rudolf Brandt, pursuant to excuse in order that he may testify before Tribunal 2. The counsel may proceed.

BY DR. SCHMIDT:

Q. Witness, before the recess you said that the typhus danger at the end of 1941 led to the consideration of increasing the production of typhus vaccine. Do you know what Professor Handloser, as Army Medical Inspector, did at this time on this matter?

A. Yes, Professor Handloser said that industry should produce more vaccine. He wanted to incite industry to produce more.

Q. Was this the industry which was already producing typhus vaccine?

A. First it was the industry which was already producing vaccine, and in addition other factories, if possible, were to produce vaccine.

Q. Do you know whether this attitude of Professor Handloser resulted in anything concrete?

A. Yes. The Behring Works had the intention of establishing a new factory in Lvov and they approached the Army, Professor Handloser, for that purpose and wanted to have the Polish Professor Weigl placed at their disposal, who was a specialist on the production of vaccine from lice.

Q. Now, was a factory built by the Behring Works?

A. A new production factory was built in Lvov.

Q. Did this factory have any official connection with the Army Medical Inspectorate?

A. No, it was purely an industrial works. It was not under the Army Medical Inspectorate and it did not have any connections with it.

Q. Did this institute later deliver to the Army?

A. I do not know exactly. They were probably only small quantities. As far as I know this factory was essentially to supply the civilian sector.

Q. Was there any other connection that Lvov Institute produced typhus

vaccines mentioned, and the name Dr. Haas? Do you know Dr. Haas?

A. I do not know him personally but I know that he worked at this institute of the Behring Works in Lwow.

Q. Then this institute and Dr. Haas had no relationship to the Army Medical Inspectorate?

A. No relations, no.

Q. Shipments of lice from Lwow have been mentioned here to the Concentration Camp Buchenwald. The prosecution expressed the suspicion that these shipments of lice could have come from the institute of OHE in Cracow. Do you know anything about that?

.. No, if that had been the case I certainly would have learned of it. The Institute would have had to ask the Medical Inspector for approvals.

Q. Do you consider that from the institute in which Professor Eyer worked, that he sent this on his own initiative? Do you consider that possible.

.. That would have been quite impossible.

Q. Now again, back to the question of the vaccine situation at the end of 1941, do you know whether at this time discussions between the various agencies, the various interested agencies took place?

.. At the end of 1941 there were talks, discussions about the vaccine situation.

Q. I have here a document, No. 1315, Exhibit No. 454. It was submitted by the Prosecution yesterday in cross examination of Randloser. I will have this document shown to you ask you when you have looked at it to answer a few questions. Did you know that this discussion took place?

.. Yes, Dr. Scholz told me about it. I myself did not participate in the discussion since I was on leave.

Q. Where was Dr. Scholz?

.. Dr. Scholz was one of the gentlemen of my group and in this case he represented me.

Q. That is if you had not been on leave you would have been there?

.. Yes, I would have been there.

Q. Now will you please look at "B" on page 2? Will you please read it? I do not have a copy here. Will you read it aloud under section "B"?

.. "The vaccine now produced by the Behring works, which is produced from chicken eggs, is to be tested for its effectiveness. For that purpose Dr. Donnitz will get in touch with the SS Over-

sturmabannführer, Dr. Brugsowsky."

Q. Who was Dr. Demnitz?

A. Dr. Demnitz was a man from the Behring works in Marburg. As far as I know he was in charge of production.

Q. If you had been shown this file note earlier, would you have noticed anything in this point "B"?

A. No.

Q. What would you have thought it meant, that Dr. Demnitz was to get in touch with Dr. Brugsowsky about an experiment?

A. Dr. Brugsowsky had a hygiene institute and apparently this Behring vaccine was to be tested in this institute.

Q. Was that anything that would have astonished you?

A. No, one can conduct a test at any hygiene institute.

Q. Wouldn't you think that this could have given rise to any suspicion that there might have been experiments on human beings?

A. No, not at all.

Q. Will you please see whether the letter which you have there is marked "secret?"

A. No, it is an open letter, and if any such suspicion had arisen the letter would certainly have been marked secret.

Q. Would you, therefore, consider it impossible for any one who knows nothing at all about Buchenwald, for him to get the idea that there might have been some connection with Buchenwald there?

A. That is quite impossible. There is no reason for any suspicion.

Q. Now I must ask you something else about this document. You see it is a discussion in which apparently important people took part, Professor Wildenmeister, and Kulicke, and in any case not, I may say, little people, more or less important people, how do you consider it likely that on the same day in which this discussion took place in the Reich Ministry of the Interior that there was already or still a discussion on the same question as which Professor Handloser, Professor Reiter, State Secretary Conti, and so forth and

so forth, important personalities participated?

.. That is very unlikely. Such a discussion or discussions would have been prepared for us a matter of course, and invitations are issued a few days before hand. Then there would never be two important discussions of important people who had a great deal of work at this time. There would never be two such discussions on the same day.

Q. It would have been possible that two weeks or one week before there was some discussion of a different group of people?

A. That is quite possible, yes.

Q. But it would probably have been impossible on the same day?

A. Yes, I consider that impossible.

Q. Do you know that Professor Handloser took part in a different discussion and with a larger number of people on the typhus question during this time?

A. No.

Q. I mean a conference, -- that there were discussions with individuals, yes, but a conference?

A. No.

Q. Would you have had occasion to know had Professor Handloser participated in such a discussion or conference?

A. I would certainly have learned of it.

Q. May I say either before or afterwards about the results, your Department probably had to be informed of the results?

A. I would at least have learned of it afterwards and have exploited the results.

Q. Does the name Buchenwald mean anything to you, did you ever hear the name Buchenwald in connection with typhus research, or the typhus question at all?

A. No.

Q. Do you know whether between the OHI Institute in Graz and the "Concentration Camp Buchenwald", the experimental station for typhus research, there was any connection?

A. There was no connection.

Q. Now, it has been stated that in Buchenwald in Block 46, that the Weigl vaccine in 1943 was frequently issued for vaccinations; how did Buchenwald get this vaccine?

A. Buchenwald can have obtained this vaccine only from the SS medical store. The vaccine distributed was as follows: It was

distributed to the individual medical reports, the branches of the Wehrmacht, which distributed them to the groups. The Army Medical Inspectorate did not know, for example, which troops received the heavy type of vaccine. That was up to the individual branches of the Wehrmacht.

Q. Were you ever in Buchenwald for any other reason?

A. Yes.

Q. Will you tell what the occasion was, and what happened?

A. At the beginning of 1946, I think, one day my Section Chief told me, that was Professor Schneider, that there was a special big action being planned in Africa for an area under the threat of yellow fever. For this purpose a large amount of yellow fever vaccine had to be produced immediately, and Professor Eyer in Graweg had been asked to do this, but there were a number of difficulties. The vaccine so far produced was not properly soluble, and was not stable. It was too easily destroyed by changes in temperature. Therefore commissions of doctors were to be set up to vaccinate the troops on the spot against yellow fever. They and the vaccine were to be sent by plane to Africa. Professor Eyer had solved the difficulties about the solubility of the vaccine by devising a different method of packing. Now, Professor Eyer was to be in a Medical Commission of the SS. He was to show the Medical Commission of the SS how to carry out this method of packing.

Q. Did the SS have a special part in this action?

A. Yes, it was expected that special divisions of the SS would participate, the Leibstandarte and the Reich were mentioned, for example. Well, then Professor Eyer was to go to an SS group near Linz, and I was to obtain information on this subject and accompany him. We went and members of the SS received us at the Railroad station and took us to the concentration Camp Buchenwald, and we were taken to into one of a barracks where a table was set up, and we met a few SS medical officers where a table was set up, and we met

a few SS medical officers to whom Professor Eyer demonst rated his vaccine packing. So his packing, --he had brought the vaccine with him, a few ampules and he showed how it was to be dissolved. It was a dry product.

Q. The impression is given that this was cardboard box. Will you please describe what this was?

A. The vaccine was formerly packed in a test tube, a glass tube. At the bottom of this glass was the dry vaccine. The glass had to be especially fixed, because the vaccine was kept in a vacuum. It was very difficult to open this ampule without infecting the vaccine and thus ruining the ampule. Now, Professor Eyer had developed a new type of glass container in the shape of a duck. If I may make, --- use the metaphor, the Vaccine was in the body of the duck. In the neck of the duck the glass was under special tension. If one filed this place upon the ampule opened immediately without breaking. Sterile water could be put into it and the vaccine was dissolved by shaking with the pieces of glass which were in the container, and the difficulties which had existed were thus solved. Only the vaccine still had to be kept and transported under refrigeration. Therefore, it had to be

flown to Africa.

Q Then the purpose of the visit was not to test the vaccine, but to demonstrate these ampules?

A The purpose of the visit was to demonstrate these ampules and the technic of opening them and dissolving the vaccine. This technic was shown to members of the SS and the Medical Corps of the SS, and all of them repeated it in order to guarantee the results. Then as far as I know Dr. Ding vaccinated a few people with this vaccine, five or six men came in and they were vaccinated in the arm with this vaccine. This corresponds to the well known smallpox vaccination, a scratch on the upper arm.

Q Would one call this vaccination an experiment in the medical sense?

A No, this was an international known vaccine which is produced in all civilized countries, and has proved its value for many years. It is even less dangerous than smallpox vaccine. Smallpox vaccine can lead to complications, but not yellow fever vaccine. The effects of the vaccine were well known and we had tested it by the usual bacteriological and chemical means, that is we had tested it for sterility and phenol content.

Q Now, tell us what else you saw in Buchenwald?

A Our stay in Buchenwald was relatively short, about an hour and a half.

Q Did you know that Buchenwald was a concentration camp?

A Before this visit I did not know it.

Q Did you see the concentration camp inmates?

A The camp was practically empty. We saw only a few people doing cleaning up work, working on the roads, and so forth, and on inquiry we learned that the inmates were being used for work. Since we were looking at it from the point of view of hygiene, we looked at the kitchens, two or three of the shelters, the sewage system, and that was the end of the visit. When we left we saw a large group of concentration camp inmates marching in. They were singing and were accompanied by mouth organs.

Q Then what was the impression you got there in Buchenwald?

A I had the impression that it was a big barracks and from the point of view of the hygienists it was extremely clean, and made a very clear impression.

Q Now, you went home, that is to Berlin?

A Yes.

Q And what did you report?

A I reported to my section chief, Professor Schreiber what I have reported here.

Q In the talk with Dr. Ding, I assume that you talked with him?

A Yes.

Q Did you not discuss what else was done in these rooms in which demonstrated the ampules?

A No, that was the entrance of the barracks. I don't know what was the building itself.

Q Dr. Ding could have told you, for example, that he was conducting typhus research on concentration camp inmates?

A No, we did not talk about that, and I knew nothing about it.

Q Was that because the time was short, or was there no opportunity, because usually colleagues discuss their work with each other.

A We had very little time, it is true. I inquired about the conditions in the camp because I had seen many other barracks, and he showed me these things as I have reported.

Q Now, in the Ding Diary which has been submitted to the Tribunal, there is an entry about this visit which you and Dr. Eyer made to Buchenwald on February 8, 1943, but it says something else too, namely, a number of vaccinations with yellow fever were performed beginning with the 9th of February and lasting for several months, and the yellow fever vaccine used for came from the OKH Institute in Gmadow; did Professor Eyer or the Medical Inspectorate ever get an assignment to test the vaccine?

A No, and that would have been quite superfluous, because the effect of the vaccine were known.

Q. But it was done; how did it happen that the Concentration Camp Buchenwald got this vaccine?

A. It could not have come from us, because we did not issue any yellow fever vaccine at all. The vaccine was locked in a special refrigerator and was not used. It might have been possible that in the camp the ampule, which we had opened at that time, was used for vaccinations. Of course, we did not take it along with us when we left, it was useless for us and it had been opened. That is the only explanation that I can think of.

Q. How many doses does such an ampule contain?

A. From such an ampule one can vaccinate fifty to sixty people.

Q. Now, if you left some of the open ampules there when you left, it would have been possible to issue them for vaccinations?

A. I do not know how many people were mentioned in the Document.

Q. There were about sixty

But do you see any sense in the vaccinations?

A. No, there was no reason for it.

Q. Now, witness, is it not true that this vaccine was completely harmless and vaccinations with it had no effects whatsoever, especially in Germany?

A. As I have already said, this vaccine was absolutely harmless, even less harmful than small pox vaccines.

Q. Then no one could die from it?

A. That is quite impossible.

Q. Now, after you returned to Berlin, did you see Professor Handloser?

A. I cannot remember.

Q. Did you report to him about this matter in Buchenwald?

A. No, I certainly did not report to him. I reported to the Section Chief and that was the usual procedure.

Q. But, do you believe that this affair, which you have described, was something which Schreiber would have had to report to Professor Handloser?

A. No, that was quite a subordinate matter, which he took care of through his section chief.

Q. In conclusion, I should like to ask you about a Mr. Klieve; did you know Professor Klieve?

A. Yes, I knew him.

Q. Where did Professor Klieve work?

A. Professor Klieve worked at the Wehrmacht, at the Ordnance Office and he also had a certain contact with the Medical Inspectorate.

Q. What did he work on?

A. He worked in the field of counter measures against the so-called bacteriological warfare.

Q. How do you know that they were counter measures?

A. He told me about it and he always said that they were working only on counter measures. For example, there was a Fuehrer order that only defense measures were to be worked on.

Q. You say a negative order that only defense measures were to be worked on?

A. No work could be done to use bacteriological warfare offensively, there was prohibition against active bacteriological warfare.

Q. Do you have the conviction that that was right; that they were working only on defense measures?

A. Yes, I am convinced of that and it was necessary.

Q. Do you know that from your own personal knowledge?

A. Professor Klieve told me that our Intelligence had reported that the Russians were planning the use of bacteria and for that reason it was necessary for us to take precautionary measures.

Q. I have no further questions to this witness.

THE PRESIDENT: Do any other defense counsel desire to cross-examine this witness?

BY DR. FLEISCH: (Counsel for the Defendant Krugowsky.)

Q. Witness, is it true that at the beginning of the campaign in the East in 1941 a typhus protection for the German troops by protective

vaccination was not provided for?

A. There were great difficulties, the medical personnel and the doctors were vaccinated.

Q. And the troops; it was not possible to vaccinate the troops for what reason?

A. There was no vaccine available.

Q. Is it true that at the beginning of the campaign in the East, the German troops had no protection against lice?

A. There was no effective protection. We had a number of delousing establishments, which were not big enough; the chemicals were not adequate and had not been developed far enough.

Q. Then an effective delousing method could be developed only during the war?

A. Yes, the really effective chemical was developed only toward the end of the war; that was called Lauseto and it contained the same substance as the American DDT powder.

Q. Under these circumstances, at the beginning of the war, was the typhus danger in the East very great?

A. It was a great danger.

Q. Then, you say, under these circumstances, from the medical and military point of view, it was extremely important to have an effective protection against typhus?

A. Yes, I must say so.

Q. Now, I come to another subject. Do you know that after large quantities of gangrene serum had been administered, there were deaths and shock among the patients due to the phenol contents?

A. Yes, the so-called phenol contents was mentioned as phenol-shock.

Q. Do you know whether for this reason there was an effort to have industries remove the phenol contents from the gangrene serum?

A. Yes, I know about that, especially since French firms produced this serum without phenol, but industry ostensibly could not work without phenol since they did not have enough trained personnel during the war

and there was therefore danger of contamination by bacteria.

Q. Was gangrene a frequent complication in wounds?

A. Yes, it was quite frequent in the field.

Q. Must one therefore say that the problem of preventing gangrene, from the medical, as well as from the military point of view, can be called extremely important?

A. Yes, one must say so.

Q. Regarding the ampules with yellow fever serum, you said before that the ampules which had been opened were left behind in Buchenwald; you said before your greatest difficulties there were in sterilizing and keeping this serum. Would you tell the Tribunal how long, in your opinion, the serum could be kept in the ampule?

A. That depends on how they were handled; and if they were immediately closed and put in freezing temperature they might be kept one day.

Q. I am thinking of the ampules which you left behind in Buchenwald; were they closed immediately after they were opened or were they laid to one side?

A. They were lying on the table.

Q. And about how long were they lying there?

A. I cannot say. I was in the room a half an hour at the most.

Q. Well, witness, you spoke of passive defense measures against bacteriological warfare and you said that our agents had reported that Russia was preparing for an active warfare with poison?

A. No, I did not hear that.

Q. Now, finally something about vaccinations; was it customary in the army before the general introduction of a new vaccine first to test the effect of the vaccine on a small group of persons and above all the reactions in order to know what the compatibility of the vaccine was?

A. If it was actually a new type of vaccine this was done on volunteers, members of the Army and members of the Military Medical Academy, that is students.

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Q. Would you consider it careless or irresponsible if such a new vaccine were used, relying on the statements made by the producing firm about compatibility, without testing the new vaccine in any form on a small group?

A. That would depend on who produced it. If it was a well known firm whose reliability had been proved, I would not consider such a test necessary. In other cases, yes.

DR. FLEING: Thank you. I have no further questions.

THE PRESIDENT: Is there any further examination of this witness by any defense counsel? There being none, the Prosecution may cross examine.

CROSS EXAMINATION

BY R. McHANEY:

Q. Witness, let's get a bit better idea of your position in the medical service of the army. To what were you directly subordinated?

A. I was directly subordinated to Professor Schreiber.

Q. And who did you have working under you?

A. Under me, Dr. Scholz, who was concerned before, and later after Dr. Scholz went into the field there was Dr. Koller, Dr. Pootschke, and a pharmacist, Dr. Lehmann, the latter only to a limited extent.

Q. What problems -- medical problems -- were you particularly concerned with between the years 1940 and 1944?

A. I was only there until the year 1944 in the medical inspectorate, 1940 to 1944. The main problem was the production of typhus vaccines and methods of combatting lice.

Q. What sort of contact did you have with Handloser? Was it frequent and of a personal character?

A. No. Professor Handloser was my superior, I made direct reports to him, only later when Professor Schreiber was changed to section chief, and the new section chief was not a hygienist. Then I reported directly to Professor Handloser after reporting to the chief of staff.

Q. When did this change occur? When did you start reporting directly

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to Ham'leser?

A. Unfortunately I do not know the date when Professor Schreiber left the Army Medical Inspectorate, and I don't think I can find it here. But that can probably be found in the records.

Q. Do you remember when Schreiber left the Army Medical Inspectorate?

A. No, I do not remember the year.

Q. Why did he leave? Do you know?

A. Professor Schreiber became commanding officer of Instruction Group "C" of the Military Medical Academy, and at the same time he became a member of the Reich Research Council.

Q. That doesn't mean that he left the Army Medical Inspectorate, if he became instructor of the Military Medical Academy, does it?

A. Yes, these were quite separate agencies. The Military Medical Academy was an agency under the Army Medical Inspectorate. In order to become commanding officer of the instruction group he had to resign from the Medical Inspectorate.

Q. But the Military Medical Academy was subordinated to the Army Medical Inspectorate, was it not?

A. Yes, that is true, but Professor Schreiber was not directly under the Army Medical Inspectorate. But he was under the command of the Academy and he was under the Medical Inspectorate.

Q. Isn't it true that certain hygienists in Germany held the opinion that animal experimentation with typhus is not efficient because of the fact that 40%, roughly, of the experimental animals have resistance to the disease?

A. I know nothing of this opinion. The vaccines were tested in the state institute for experimental therapy in Frankfurt. We had nothing to do with the methods used.

Q. Witness, are you swearing to this Tribunal that you have never read in any official journal published in Germany, or have never heard from any report, that the opinion was held by certain hygienists that animal experimentation with typhus was not too good, not too reliable, because a great percentage of the animals had resistance to the disease? Are you swearing that you have

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never heard of that opinion, read any reports about it, or read any articles in medical journals?

A. In this form, in my opinion, that is not true. The method of testing in the State Institute was questioned by various agencies, but not the fact that such tests can be conducted on animals at all.

Q. Witness, I don't think you have answered the question. Is there any scientific opinion that animal experimentation with typhus is not reliable? Now answer yes or no.

A. I do not know of this opinion.

Q. Then if the Defendant Karl Brandt expressed such an opinion to this Tribunal, he didn't know what he was talking about? He advised the Tribunal that he thought it was probably as necessary to experiment on human beings with typhus as it is with malaria. That is not your opinion?

A. It is not my opinion that typhus experiments must be conducted on human beings.

Q Do you know whether certain experimental animals have resistance to typhus? Is it customary that often they do?

A In guinea pigs--and these are the animals concerned--there are certain difficulties, since in series of experiments the guinea pigs sometimes without being infected with typhus, have increased temperatures, but for this purpose a large number are taken to eliminate such inaccuracies.

Q Criticisms were levelled at the experimental methods of the institute at Frankfurt that you have already mentioned?

A Industry sometimes questioned these testing methods, since industry itself called the vaccine good while the state institute said that it was less effective, and we therefore rejected it. This was the vaccine that I mentioned before.

Q Well, you mentioned something about this Dearing Works, the vaccine produced by their institute at Harburg being made from the embryo in a chicken egg. You weren't speaking about their total production, were you? They did produce vaccines developed from the egg yolk, didn't they?

A Yes, there are two methods of production. In the first place the embryo is used. Then a much larger quantity of vaccine is obtained. In the second place the embryo is not used. In our opinion this produced a more effective but a smaller quantity. We used only this latter type without the use of the embryo on the basis of the recommendation of the state institute.

Q Well, I don't think you want to leave the impression with the Tribunal that the Army Medical Inspectorate was rejecting all of the typhus vaccine produced by the Dearing Works. That is not true, is it?

A No, I did not say that. I say only that there were two vaccines from the Dearing Works. One vaccine was quite good, and another using the embryo, which we rejected on the basis of this opinion, which was considered less effective, and we did not use it.

Q Do you know a man named Eugen Hagen?

A Yes.

Q He held the same opinion that you did about this typhus vaccine produced from the chicken embryo. He went so far as to write a letter objecting to it. Do you know anything about that?

A No.

Q What contacts did you have with Ha on?

A I had no contacts with him at all. I met him on some occasion since I was a hygienist. I know that he was a professor at Strassburg.

Q You knew he was working on typhus vaccines, didn't you?

A When he was at the Robert Koch Institute he was working on the virus field.

Q Didn't you know that he continued his vaccine experiments, typhus vaccine experiments, after he left the Robert Koch Institute at Strassburg?

A No.

Q You have never been to Strassburg to see him?

A No.

Q Did you usually attend the meetings of the consulting physicians of the army?

A I attended a few meetings, but not all of them.

Q Which ones did you attend?

A I cannot say for certain. I don't know any more which specific meetings I attended.

Q There were about five, witness. Could you remember which ones you attended?

A I remember that I did not attend a meeting at Hohen-Luechen.

Q Well, did you attend all of them at the Military Medical Academy where you were working?

A No, not all of them. The whole personnel of the Inspectorate couldn't leave for days. I did not attend the whole meetings. I attended parts of them.

THE PRESIDENT: It is now 12:30 o'clock. The Tribunal will recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

DR. SEIDEL: (Counsel for the defendant Herta Oberhauser). Mr. President, the defendant Dr. Herta Oberhauser asks in view of her situation of health to be absent from this session after 3 o'clock. The Prison Physician will submit a medical certificate to the Tribunal.

THE PRESIDENT: The defendant Oberhauser may be excused after the afternoon recess upon filing a certificate from the Prison Physician.

BY MR. MC HANEY:

Q Witness, can you tell us definitely of any of the meetings of the Consulting Physicians which you remember having attended?

A I cannot tell you that for certain since I only attended individual meetings of the Consulting Physicians, which included about a hundred lectures.

Q Do you possibly remember having attended the meeting of May 1943 at the Military Medical Academy in Berlin?

A During that time, I was in Berlin. It is quite possible that I attended this meeting, at least I may have attended some of the lectures.

Q I assume you attended the lectures concerning hygienic problems?

A That may be. I couldn't tell you that for certain.

Q Well, did you usually attend the meetings where the surgeons were holding forth?

A No, I attended meetings of interest to physicians and hygienists.

Q Do you possibly remember at that meeting in May 1943, at the Hygienic Section, that Doctor Ding made a talk on his Typhus experiments?

A I did not listen to any lecture made by Dr. Ding at any time.

Q When did you first meet Ding?

A I cannot remember that.

Q Do you not remember when you first met Dr. Ding?

A I was in Berlin at that time, but I don't know exactly when.

Q I take it you met him then before your trip to Buchenwald in February 1943?

A Yes. I met him there.

Q Do you remember the occasion of your having met him. Did you have any business with him?



A No, I cannot tell you that.

Q Do you know what Ding was doing?

A I only know that he belonged to the collaborators of Professor Mrugowsky.

Q Do you know that he was working in Buchenwald after you first met him?

A No, I didn't know that.

Q How many times did you see him later? Did you have frequent contacts with him?

A No, I only met him on one or two occasions at the most. I had no personal contacts with him at all.

Q Did you have any contacts with Mrugowsky?

A Yes, in so far as hygienic problems arose since part of the Waffen-SS was subordinated under the Army. I reported about that before.

Q How frequently did you have contact with Mrugowsky?

A Very rarely, he only telephoned me maybe once or twice a year. At any rate, very, very, rarely.

Q Did you ever consult with him concerning Typhus problems?

A No.

Q Do you know that they had a Typhus producing establishment at Buchenwald?

A No, I only found that out here.

Q I suppose you know Dr. Weigl?

A Professor Weigl? Yes I saw him once when he visited Cracow.

Q As a matter of fact, wasn't he working for the Army, Dr. Weigl?

A Professor Weigl was working as a bacteriologist in the Institute for Typhus Research in Cracow or Lemberg. The methods he used for the production of vaccines was taken over by us.

Q Well, but he was attached to and working for the Army, wasn't he in 1941 and 1942?

A Yes, he was a civilian employee, so to speak.

Q And, the Army made him available to the Behring Works new plant at Lemberg didn't they?

A No, the Wehrmacht made him available, as I said before, for the institution of a Typhus vaccination production of the industry, that is to say, Behring Works, only in order to increase production and in order to teach them of

the techniques which he developed.

Q That is what I said, the Army made Weigl available to the Behring Works so they could start a producing plant at Lomborg; that is right isn't it?

A Yes.

Q When did this production plant at Lomborg begin its operations? When did it actually get into Typhus vaccine production?

A I believe no production of any amount came about since the technical installations brought about some technical difficulties, since no actual production could come about. At any rate, I never heard that we received any Typhus vaccines from them for the purpose of the Army.

Q Don't you remember, roughly, when they actually began operations? You remember that the plant hadn't been built at the first part of 1941. Now, don't you remember when they actually, formally opened the Behring Works at Lomborg?

A No, I don't remember that. You see, we didn't receive our vaccines from there, and therefore, didn't know from what production agency of the Behring Works this vaccine came.

Q You just turned Weigl over to them and forgot about it; is that right?

A No, I didn't know how long Weigl had worked there. I only know that Weigl.

was made available by us in order to work there with this institution. It was not my task to send Weigl there or call him back. I had nothing to do with that.

Q You don't remember having attended the opening of the Behring Works? They had a bit of a celebration there late in 1942. You were not there?

A No, I was not there.

Q And you don't even know when they started producing typhus vaccine there; all you know is that they were very much interested in typhus vaccine production. Is that right?

A No, I don't remember these details. As I said before, it was because we didn't know whether it was delivered to us by the Behring Works. I only know that no substantial quantities came from there which we were to use.

Q If you got any Weigl vaccine from the Behring Works, you certainly knew it came from that plant in Lemberg because that was the only place they were producing the Weigl vaccine, except in the two OKH Institutes; is that right?

A I didn't quite understand that.

Q I said if you got any Weigl vaccine from the Behring Works or anything else you knew it had to come from the Behring Works in Lemberg because there was only three places in all of Germany and I think in all of Europe producing the Weigl vaccine; one of them was the OKH Institute at Cracow, the OKH Institute at Lemberg, and the Behring Works at Lemberg, three places?

A That is quite correct, but I had no list at all about the amounts of vaccine or the way the vaccine was produced. It was not my task, you see. The vaccine was distributed by the main medical supply office. We in the Medical Inspectorate only dealt with the question of whether somebody will get vaccine or not, but not what kind of vaccine they were to get; so, I know nothing about the amount of vaccines. I only know what amounts were available on the basis of the list which I received from the Chief Medical Supply Officer, but I certainly didn't know anything of the details, that was not my task.

Q Did you control the allocation of Typhus vaccines for the Wehrmacht?

A With reference to the vaccines which we received ourselves, it was distributed by us to the various Wehrmacht branches according to the size of the epidemic, and the amount of people that were there. Are you referring to an investigation of vaccine, maybe I don't understand you correctly.

Q No, I should think there would have been a central agency in Germany which was advised about the production of vaccine, who was producing it and how much. I should also think that this agency would have control over the allocation of that production, so much allocated to this group and so much to that group; is that right?

A We didn't know what amounts these works were producing, but we only know what amounts we received, and they were then distributed. I didn't know whether the Behring Works distributed any of their vaccines to the civilian sector, for instance; so, we were not justified in approaching the Behring Works and asking them what amount of vaccines they were producing. So, there wasn't any real control.

Q What about the production of the Robert Koch Institute? Did you have any control of that?

A No, the Robert Koch Institute delivered their vaccines for the civilian sector. It may be at the beginning they sent us a few litres of vaccine but it didn't amount to anything much.

Q Well, witness, we have a letter here which I think is from Gildemeister, dated January, 1943, in reply to a letter which was sent to him by Handloser, in which he was directed not to distribute any typhus vaccine to any branch of the Wehrmacht. It all had to be sent to him or to his Medical Supply Officer, and moreover Gildemeister gave him a report on the production of the Robert Koch Institute.

A The individual Wehrmacht branches were always trying to get vaccines through deviating channels since they were not satisfied with the distribution and in this way a Wehrmacht branch may have approached the Robert Koch Institute. That is quite possible.

Q Witness, about these lice which went to Buchenwald. There were only three places where Buchenwald could have easily obtained lice. As I see it one place was Eyer's Institute in Krakow, and the other place was the OKH Institute in Lemberg and the third place was the Behring Works in Lemberg, only three concerns in all Europe, making Weigl vaccine from the intestines of lice and only three agencies with typhus infected lice readily available, now how can you swear to this Tribunal that Ding didn't get his lice from Eyer?

A I didn't quite understand you. Who is supposed to receive these lice from Eyer?

Q Dr. Ding at Buchenwald.

A As I said before, that the camp of Buchenwald did not receive any lice from Professor Eyer since otherwise I or the Medical Inspectorate would have learned about that situation or we would have been asked for permission. I explained that before, so the vaccine of the OKH cannot be included. In this case there only remains the Behring Works in Lemberg. It may be the Behring Works in Marburg for instance had some lice. I don't know about that.

Q Where did the Behring Works in Lemberg get their lice from, from Weigl when he came over from Syer's Institute?

A I don't know that. Lice are all over the world. One only has to have lice suck on any typhus diseased person in order to get such lice, that is all that is necessary.

Q That may be true, witness, but suppose you tell us how many places in Germany were in the business of cultivating typhus infected lice?

A Wherever typhus occurred.

Q Now, witness, you aren't suggesting to go around and look for typhus infected lice, are you, I mean that we should get lice and feed them typhus infected blood, that isn't the way to do that. In other words, how many places in Germany were actually cultivating typhus infected lice, any place besides the OKH in Krakow, the OKH in Lemberg, and the Behring Works in Lemberg. These are the only three places, isn't that right?

A Yes, they are the only places where lice were cultivated, but you can always build up such a breeding place where you want to.

Q Now I think you told Mrugowsky's attorney that the typhus vaccine situation was so critical in the latter part of 1941, that you only had enough vaccine to inoculate doctors and nurses and other people who were in very exposed places, is that right?

A Yes, that is correct.

Q I, therefore, assume that typhus vaccine must have been allocated with considerable care, is that right?

A Yes, according to the demands of the individual Wehrmacht branches, who naturally had to take all responsibility for these demands. We didn't know anything about the situation.

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Q. For instance, if the Waffen SS said then, "we need 100 litres", you just sat back in your chair and said: Okay, give them 100 litres," and shipped it off to Dr. Gensken over here and didn't pay any attention to what he did with it, is that right?

A. Whenever, the Wehrmacht branch demanded a certain amount of "X" vaccine then we tried to find out whether we had a sufficient amount of vaccine and we distributed the vaccine in accordance with what was available. We distributed it to the Medical Supply Office of that Wehrmacht Branch and that concluded our task.

Q. Witness, I am interested in knowing how Dr. Ding on the 5th of January, 1942, six days after the meeting on the 29th of December 1941, at which your man Scholz attended, had obtained a sufficient amount of Weigl vaccine to start an experiment, during the course of which he artificially infected a substantial group of people?

A. If we were concerned with the Weigl vaccine it must have come from the main medical supply office from the Waffen SS. When this occurred we couldn't know because we didn't know when the chief medical supply office delivered these vaccines to their group of branches.

Q. Now, nobody got any of this vaccine except front line troops, did they? And you didn't have enough to inoculate the troops? You could just give it to doctors and nurses, couldn't you? Now you tell me you delivered a substantial amount of this vaccine to the SS in Berlin and then forgot about it?

A. Presumably that the SS in the very same way would use that vaccine as it was done by the other Wehrmacht branches, that is to say, give it to the physicians, to the nurses and to the medical personnel.

Q. Now, in view of the critical shortage of typhus vaccine late in 1941, what did you do about remedying the situation?

A. The Army Medical Inspectorate, as I mentioned before, tried to interest industry in the production of vaccines. We mentioned that before.

Q. Didn't you follow that situation pretty carefully. Wasn't the Army going to be a customer of the pharmaceutical industry too?

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A. The industry up to that point obviously had a great interest in the production of vaccine, and it is a matter of course that this was a question of business for industry, and the production of the typhus vaccine is very expensive, and that could have been the reason why industry was not very interested in this matter.

A. Why did you send your man Scholz to this meeting on December 29, 1941?

A. I don't know what you mean by that, Mr. Prosecutor. I didn't send him anywhere.

A. Witness, you have been shown a document by Dr. Nolte concerning a meeting held in the Ministry of the Interior on the 29th of December 1941, at which typhus production and typhus vaccine testing was under discussion, and that the representative of the Army was there, and his name was Scholz, and you were his immediate superior. For what purpose was Scholz sent to this meeting?

A. I have already said that I didn't send this man there but that this man represented me during my vacation. Of course, I didn't send him to that meeting. I wasn't there to do that.

Q. What was the Army doing there? Why were they interested?

A. According to that invitation I think we are concerned with an invitation of the Reich Minister of the Interior, and circles interested in the production of typhus vaccines were invited, among them the Army Medical Inspectorate, whose representative Dr. Scholz was.

Q. Do you remember having received any report on this meeting? What transpired there?

A. I have already said that I was informed about this meeting by Dr. Scholz but I don't remember the report itself. It is very improbable that I read it myself.

Q. Witness, paragraph B in there says something about testing these egg yolk vaccines and somebody has to see Mrugowsky about Dennitz, didn't somebody have something to say about that?

A. I cannot remember these details. I am sure he must have reported that to me. We are very concerned with a Dr. Dennitz, who was representative of the industry and who was to visit Dr. Mrugowsky, but we are not concerned with a member of the Medical Inspectorate.

Q. Witness, to get it rather narrowly now, the whole purpose of contacting Mrugowsky was to test this egg yolk vaccine, of which you were afraid. You had confidence only in the Weigl vaccine. I think the army as a whole had great interest in the egg yolk vaccines produced by the Behring Works at Marburg and by the Robert Koch Institute in Berlin. Now, didn't they tell you about that?

A. They told me that the Behring works, as before, insisted that this vaccine which we refused because of its late effectiveness, had been proved successful after their investigation and from that, in my opinion, the note in this document can be explained, where it says that any other party which was not interested, like industry, would have to test this vaccine.

Q. Witness, you see it is not quite so simple because only six days

later, January 6, 1942, Dr. Ding in Buchenwald started testing this egg yolk vaccine. That was the whole purpose of starting the experiments in Buchenwald on living human beings, during the course of which several hundreds of them were killed; that was the very purpose of the Buchenwald experiments to test this egg yolk vaccine. I am suggesting to you the army was very much interested in the testing of this vaccine and that you very well knew they were going to test it at Buchenwald. Isn't that true?

A. No. I must deny that very energetically. I understand this note as I said before by knowing that this is merely an investigation of the vaccine in an animal experiment. I am not convinced at all that any such vaccination on the human being would bring about a result which was of any value, for in this case, for one can never imitate the biological conditions which apply to the human beings so that to get a biological experiment the result, in my opinion, would be of no value at all.

Q. Do I understand you to state the typhus experiments on human beings are of no value?

A. According to my opinion they are at least of no importance. I cannot explain any importance at all. Personally, I think they are of no value.

Q. I am sure that it will be of interest to Dr. Ding. Now, let's go back to your visit to Buchenwald in February 1943. Just exactly when, again, did you go there with Dr. Eyer?

A. Initially I said I stated that the question was to send a commission of physicians there to show them how the typhus vaccine was prepared and in order to show them how the difficulties which prevailed up to that moment, namely to dissolve the dry vaccine, were overcome. This Commission of Physicians, as it was provided, were to vaccinate the troops right there in Africa, because the transport of

the vaccine by ordinary channels, that is by medical supply office, was impossible since the vaccine is too perishable and can too easily be destroyed and it could not be preserved under freezing degrees.

Q That is yellow fever vaccine now, and not typhus?

A No, that was yellow fever.

Q And why did you go to Weimar, is that where you went to visit to Weimar?

A I was told that this was to be presented in the vicinity of Weimar, where the SS was. We were to be fetched there by the SS and then sent to the place where this presentation was to take place.

Q You were just seeing the SS doctors in Weimar, is that right?

A I don't quite get you. Would you please repeat?

Q I say, you were seeing only the SS doctors of this Commission in Weimar?

A Yes. We were to present this dissolution of the vaccine to the SS physicians at Weimar.

Q What SS doctors were on this Commission that was going to North Africa? What were their names?

A I only remember the name of Dr. Ding.

Q Witness, are you telling this Commission that Dr. Ding was on a Commission that was going to be flown to North Africa to vaccinate some troops with yellow fever vaccine?

A I do not know whether Dr. Ding was to do that, but I assume that these few physicians who saw that had to train other physicians in order for them to practice this manner of vaccination. There were only a few physicians who witnessed that. I wouldn't assume that only those few physicians were to fly to Africa. I am sure there must have been more than that.

Q What were the names of some of those other SS doctors?

A I regret I can't remember any of the other names.

Q That is unfortunate. And how many were there?

A Five to six, I think.

Q High ranking doctors?

A The gentlemen were dressed in white coats, and I couldn't tell.

Q Where was this demonstration carried out?

A I already said it was in an ante room of the barracks. The camp itself consists of a number of barracks. In one such ante room a table was erected where this presentation took place.

Q This was in the Buckenwald camp itself, it wasn't in Weimar?

A No, we were fetched on from Weimar by car, as I said.

before, and then driven to Buchenwald, and this presentation occurred in Buchenwald itself.

Q Where did you travel from to get to Buchenwald, did you come from Berlin or come from Oranienburg?

A No, I came from Berlin.

Q Where did Dr. Eyer come from?

A Dr. Eyer had also been in Berlin before.

Q What did you do during this demonstration, I remember something about breaking a bottle and putting some water in it and shaking it; is that right?

A No, that is not quite right. I said that this bottle had to be filled, and afterward the bottle had to be shaken, and because of the little pieces of glass which are inside the vaccine is being dissolved. In the use of all vaccine bottles it occasionally happens that the glass breaks, since it was too fragile --

Q You are asking this Tribunal to believe that two such distinguished gentlemen as yourself and Dr. Eyer traveled from Berlin to Buchenwald and went into the concentration camp, and demonstrated to five SS doctors, whose names you don't remember, except Dr. Ding, -- demonstrated how to break the neck of the ampule containing the vaccine and how to dissolve it; is that what you want the Tribunal to believe?

A It isn't so simply. You don't just have to break open the ampule, and then dissolve it. You have to work very carefully in a sterile manner. The matter of the dissolution of the vaccine is very important, and it is of much value in presenting this method, especially if any large amount of troops are to be vaccinated.

Q Did you refer this process to anybody else in this Commission, any Army doctors?

A No, the question was never executed, because the problem had been solved.

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Q. Well, you taught the SS men first, then the whole thing was dropped and you did not do anything more. Is that right?

A. We merely trained the SS physicians and then preserved the vaccine in order to be able to use it at a given time.

Q. Witness, did you not see the typhus experimental station when you were in Buchenwald?

A. No, I already said that I did not know that such a station was there.

Q. Dr. Ding did not tell you that he was carrying on a typhus experiment although you were in Buchenwald. Is that right?

A. He did not tell me anything about it.

Q. You know they had an experiment going on the very day you were there; they were testing Akridin and Methylene Blue in the Behring Works. You were actually familiar with those drugs, were you not?

A. No, I know nothing about that.

Q. You never heard of Akridin and Methylene Blue?

A. We were concerned with Methylene Blue, which is something which we used in medicine for many years, but I cannot know for what purpose it was used there. For decades it was used in laboratories for coloring purposes. Akridin is a yellow-colored agent and I do not know what it is used for. It absolutely did not concern my sphere of work.

Q. How long were you in the Buchenwald Camp?

A. I already said that I stayed there for about one and one-half hours.

Q. Yes, I recall you said you saw a group of happy, well-fed workers marching back to the camp singing.

A. Yes, I saw a column, which marched past as we went out being accompanied by a harmonica or something.

Q. Did they act like happy boy scouts?

A. That I could not judge.

Q. Now, you apparently don't know anything about these yellow fever vaccine tests that Dr. Ding carried out for you in Buchenwald, do you?

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A. I already said that Dr. Ding did not do any yellow fever testing for us.

Q. And you suggested the possibility that he kept four or five of these ampules of vaccine after you had been there and he might have conducted some tests of his own with those. Is that right?

A. This possibility exists.

Q. Well, I want to demonstrate it to you that there is no such possibility. Witness, you were there on February 8th, 1943. Witness, look on page nine.

A. Yes.

Q. See there where it says February 8, 1943: "Visit of Oberstabsarzt Dr. Eyer from the Institute for Spotted Fever and Virus Research of the OKH in Crakow and Oberstabsarzt Dr. Schmidt from the Army Medical Inspectorate." Do you see that?

A. Yes.

Q. Now, will you turn back to page 7? Read the entry, 10 January, 1943, which was just about thirty days before you were in Buchenwald. I think you will see that the yellow fever tests were carried out then and that was before you even got there with your yellow fever ampules.

A. That is correct - according to this book, it is correct.

Q. So then the possibility, which you suggested, is really no possibility at all; is it?

A. I don't know what the proof of this matter is.

Q. Witness, direct your attention to this entry on page seven, will you, in the first paragraph there? It seems like virus is being handled for safety, because for each vaccine a test is to be performed on five persons. You want to tell the Tribunal that Dr. Ding just did not know what he was talking about; there was really no point in testing this yellow fever vaccine?

A. I said that the testing of the yellow fever vaccine was considered to be superfluous by me since the vaccine was produced according to no

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methods and it was harmless as it was.

Q. Ding just did not know what he was doing; is that right?

A. I do not know.

Q. Let us read two paragraphs down where it says: "The results of the yellow fever vaccine tests are to be sent to Department 16 in the SS Main Headquarters in duplicate; we will forward one to the manufacturer and one to the Supreme Command of the Army, OKH. Attention Oberstabsarzt Dr. Schmidt." Did you ever get any reports on the yellow fever tests?

A. No.

Q. Can you offer any explanation for this entry?

A. No, I cannot explain it.

Q. You also testified, witness, that you kept a very careful close watch on these yellow fever vaccines; this same entry under Item 5 shows that they had some yellow fever vaccines from the OKH - Krakow, under Item 5 and Item 8; do you see that?

A. I have not found it yet - page 5?

Q. Page 7.

A. Yes.

Q. Under 10 January 1943, can you see there the tested list of OP Numbers?

A. Page 8, that is right.

Q. Do you see under No. 5 and No. 8 that they had some Yellow fever vaccines from the OKH in Krakow. Do you suppose that they received that through the SS Medical Department to use like they did in the local vaccines?

A. No, no, yellow fever vaccine was not furnished by us at all; I therefore cannot explain this entry at all.

Q. Now, witness, don't you think it is about time you told us the truth concerning this visit to Buchenwald. I have the work report for 1943 of Dr. Ding and he says that 8 February, 1943, you inspected the clinical station in Buchenwald and the clinical station is where they carried out these typhus experimental matters; now don't you want to tell

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the Tribunal you inspected that Typhus experimental block like Dr. Ding says in the report? Would you like to see it?

A. I should like to state that I did not see any typhus experimental stations or anything like that; I merely witnessed the presentation and the dissolution of the vaccine, which I mentioned before.

Q. Witness, this form No. 571, Prosecution Exhibit 285, it says: "Visit of Major Dr. Eyer (MC) from the institute for spotted fever and virus research of the OKH in Krakow and Major Dr. Schmidt from the army medical inspectorate." If you don't have this document before you, I will pass it up to you. Right at the bottom of the page, witness.

A. Yes, I can see it.

Q. Did you or did you not inspect the clinical action with Dr. Ding?

A. I did not.

Q. I have no further questions.

THE PRESIDENT: Any further re-cross examination of this witness by the Defense Counsel? Any re-direct examination?

RE-DIRECT EXAMINATION.

BY DR. NELTE: (Counsel for the Defendant Handloser.)

Q. Do you have the work report, which the Prosecutor just mentioned before, the report with the OP Numbers.

A. You mean page No. 8?

Q. Will you please look at Document No. 571?

A. Yes.

Q. On Page 5 of the Work report, under No. 111, you will find an entry of 8 February, 1943. This entry is identical and conforms with the entry in the Din Diary, which you know. I now ask you to look at the visits listed under No. 111; there are altogether four visits. Read them again, it says on the 8th of February, 1943: "Visit of the clinical station by Oberstabsarzt Dr. Eyer and Oberstabsarzt Dr. Schmidt." and on the 24th of August and 3rd of September and the 29th of September. You always find the designation visit by these various visitors. From the use of the word usually used in military channels, can you say what

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the basic difference is whether you consider something as a visit or an inspection?

A. The expression "inspection" is only used when one is concerned with official relationships of subordinates and superiors. If somebody visits without any official source, that is to say there can be no official relationship between the visitor and the one that is being visited.

Q. I have no further questions.

DR. FLEMING (Counsel for the defendant Krugowsky): Mr. President, I ask you to permit me that I could ask another few questions on the basis of the questions put by the prosecutor.

THE PRESIDENT: Counsel may proceed.

• REDIRECT EXAMINATION

BY DR. FLEMING:

Q. Witness, you have stated that the testing of typhus vaccines on human beings was of no value. Did you ever work with typhus?

A. No.

Q. In that case your judgment about the value of the typhus experiments is not derived on the basis of your own personal experience with typhus viruses and typhus vaccines?

A. No.

Q. You said yourself that the testing methods of the typhus vaccines on the animal which were carried out by the institute at Frankfurt am Main were partly attacked by industry. Have you any reason to believe that this interference on the part of the industry was unjustified?

A. I have no reason to believe that - well, you see, this is a scientific question which has not yet been solved. That is why it says in the document that some kind of a unified testing method was to be defined. We, at any rate, kept to the state investigation because that, for us, was the proper authority.

Q. Witness, do you know whether the typhus virus in the case of the animal brings about a disease which in every way can be compared to a disease of a human being?

A. The typhus virus has no such effect.

Q. Then wouldn't one have to say that the testing of typhus vaccines on human beings was not without value and that in addition to experiments on animals, experiments on human beings had to be carried through if there was any intention to produce certain typhus vaccines in the army and in camps in the case of hundreds of thousands of people?

A. We had another safeguard, namely, every soldier who was vaccinated against typhus was registered in his pay book and it could be seen with what

vaccine and what production of vaccine this man was vaccinated. If somebody who was vaccinated contracted typhus, such an entry was taken over into his case history. On the basis of the case history one could establish which vaccine proved to be the better or the worse. I think that this is a method which we carried through and which led us, I am sure, to a good end.

Q. This method, no doubt, is a method which one would have adopted in normal times but didn't it take an extraordinarily long time until one could receive usable results?

A. That is correct.

Q. In the case of the emergency which you have mentioned wasn't it necessary to see to it that one could judge as quickly as possible what vaccines were a valid protection in order to avoid having to vaccinate hundreds and thousands of soldiers with unusable vaccines?

A. In these questions the issue at stake was to decide whether one vaccine is a little more effective than another. We, on the part of production, were only interested in producing as much of it as possible. It is not so important to know whether one vaccine is a little better than the other.

Q. When using this method of testing, wasn't there a danger not only to use vaccines which were a little less effective than others, but also to use vaccines which had no protection value whatever?

A. No. We tested these vaccines in animal experiments and one could never say in such a case that one would receive a vaccine which was of no value at all.

Q. Do you know the so-called Ipsen vaccine from Copenhagen?

A. No.

Q. In that case you don't know that this was very effective in the case of animals but of no value in the case of human beings?

A. No, I didn't know that.

Q. You don't know it. Thank you. I have no further questions.

THE PRESIDENT: Any other examination of this witness by defense counsel? Has the prosecution any further questions? The witness may be excused. Does counsel for defendant Hanelser desire that the witness Hartleben be

called? The Marshal will summon the witness Hans Hartleben.

HANS HARTLEBEN, a witness, took the stand and testified as follows:

JUDGE SIEBRING: Please hold up your right hand and be sworn, repeating after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SIEBRING: You may be seated.

THE PRESIDENT: Before proceeding with the examination of this witness the Tribunal will be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

May it please your Honors, the defendant Herta Oberhauser having been excused by the Tribunal this afternoon is absent.

THE PRESIDENT: The secretary General will note for the record that defendant Herta Oberhauser has been excused for the balance of the afternoon.

The Secretary General will file the physician's certificate.

The Counsel may proceed with the examination of the witness.

BY DR. WELTE:

Q. Witness, will you please give your name.

A. Hans Hartleben.

Q. When and where were you born?

A. On 25 January 1896 at Halle on Saale.

Q. Will you please tell the Tribunal about your career.

A. I attended a high school gymnasium in Halle on Saale, and studied medicine in Freiburg, Breisgau and Halle. Then, in 1923 I entered the Army of the Reich. I was at various posts as medical officer, and I was trained in internal medicine. Then, I was in charge of the internal medical section in a post hospital in Stuttgart, and on the 1st of January 1937, I was transferred to the Army Medical Inspectorate. Originally I was a consultant there, a referent. Then, I was a group leader, Gruppenleiter, and on the 1st of October 1940, I became section chief of the organizational section of the Medical Inspectorate. In May 1943, I was sent to the front as corps physician with the 38th and later of the 57th Armoured Corps. In July 1944, I became Army Physician for the Third Armoured, and I was this until I was captured.

Q. And, where are you at the moment?

A. At the moment I am on the witness stand in Nurnberg, before this Tribunal.

Q. And, when you are not here?

A. When I am not here, I am in a prison camp at Garmisch.

Q. In a Prisoner of war camp?

A. Yes, a prisoner of war camp.

Q. I am interested in your activities as chief of the Organizational Section in the Army Medical Inspectorate. You said this was from the 1st of October 1940 until May 1943. Will you please describe your work as head of this section?

A. All organizational questions in the field of the medical service were taken care of in addition to basic questions; organizational questions in the wider sense, such as training of the non-commissioned officers and the men, seeing that the personnel in the hospitals and with the units in the field, the medical units in the field, and in addition had to obtain medical equipment during the war. Another group was in charge of development of medical equipment, medical instruments, and so forth. A third group was in charge of medical organizational measures of care as well as hospitals and the transport of patients at home. Finally, there was another group in charge of the question of expanding the medical service.

Q. Did the organizational questions include working out regulations for the new office of the Chief of the Wehrmacht Medical Services?

A. Yes.

Q. We would like to hear from you, who helped in creating this decree, and the instructions in 1942. We are interested in the interpretation of the instructions of 1942. Although, this was published or it must have reached many Wehrmacht units, we have no copy of it, and the Prosecution is very unhappy about this because the powers of defendant Handloser was to have been regulated by this regulation. I do not want to interrupt you by questions. Will you please tell us about the decree of 1942; the instructions, how it came about, how it was written because the interpretation is of special importance.

A. The instructions had quite a long history which developed during the war. It came about that in the nature of the thing that the developments for the creation of such an office were urgent. At the beginning of the war the medical service of the army, and no doubt also of the other branches of the Wehrmacht, did not have any superfluity of men and materials. There was a considerable lack in important fields. To give an example - at the beginning of the war to a very large extent we had a lack of trained medical personnel, but also in the field of materials and medical equipment there was a great scarcity. To give an example again - an important group of medical instruments had not been set up at the beginning of the war and in some fields did not even exist, x-ray apparatus was lacking too, and ambulances were lacking and other things. No wonder then that at the beginning of the war the need for all of these things and for trained personnel rose suddenly. In the Army, which was the largest branch of the Wehrmacht, this was most urgent, but in the other branches of the Wehrmacht it was no doubt similar. Moreover raw materials gradually became more and more scarce, and industry was not as efficient in doing away with these scarcities in a relatively short time. There was not only the need of the branches of the Wehrmacht, but also the civilian needs for hospitals and doctors, which at the beginning of the war still had supplies, but as the war went on it needed a great deal of replacement of materials, and there were also difficulties in the medical supplies for the civilian population. These things made it necessary for a certain unity to be created.

Q. Excuse me, the war began on the 1st of September, 1939, and the position of the Chief of the Wehrmacht Medical Service was created by the decree of the 28th of July, 1942. Will you please explain why it took so long, you are speaking of the scarcity in 1939?

A. At the beginning of the war, in the first years, these difficulties could be overcome by one measure or another and improvisation, but then gradually the longer the war lasted the more urgent the need became and the more necessary a certain unification was more necessary also because the branches of the Wehrmacht did not check upon one another and did not know whether one branch of the Wehrmacht, for example, had ordered more medical

equipment than another. Then there was a necessity for a central regulation in the branches of the Wehrmacht, but none of the branches of the Wehrmacht urged such a regulation. There were probably two reasons for this. One reason is probably that each branch of the Wehrmacht feared the creation of a central management of the medical service, that its sphere of activities would be restricted where individual branches of the Wehrmacht had worked independent up until then and a closer check had to be expected. On the other hand each of the higher medical officers who would likely be considered for this position no doubt feared that he would not have enough authority within the High Command of the Wehrmacht. The OKW's set up was unfavorable for this. If it did not act on behalf of the Fuehrer, the OKW was in no position to give definite orders to the various branches of the Wehrmacht, and there may have been the fear that a Chief of the Wehrmacht Medical Service would be very limited in his authority. Then in the year 1942, the High Command of the Wehrmacht intervened itself, not that it had a very clear view of conditions in the Medical Service itself, but in view of a unification of other fields of work. The question was brought up for discussion and a long order from the Chief of the High Command of the Wehrmacht made it possible, or rather ordered his Staff, the High Command of the Wehrmacht, to introduce unification wherever this was necessary, to simplify and coordinate forces. The Army Medical Inspectorate was discussed, and a Colonel Munch was in charge of the discussions from the OKW. He was killed in action later and the Army Medical Inspectorate put me in charge of the preliminary discussions. Then in constant collaboration with the Chief of the Staff of the Army Medical Inspectorate and the Army Medical Inspector personally, these discussions were carried on. In these preliminary discussions it was shown clearly that there were many objections from the branches of the Wehrmacht which had to be expected, and that not much more could be done at first than this coordination things in some form in which the State of affairs made it urgent. This meant primarily coordination between the branches of the Wehrmacht and the Waffen SS on the one side and the civilian sector on the other side, as far as personnel or materials are concerned.

The Fuehrer decree was discussed and drafted and also the official instructions for the Chief of the High Command of the Wehrmacht, which

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be issued for the Chief of the Wehrmacht Medical Service. The inclusion of Professor Brandt was also discussed. Colonel Munch apparently had instructions from his superiors on this question, and it was provided that Professor Brandt was to be called upon primarily to coordinate the two big sectors, the civilian sector on the one side and the military sector of the Wehrmacht, and the units which had been or were subordinate to the Wehrmacht on the other side. The negotiations dragged out for sometime. There were changes repeatedly, and finally in the late summer of 1942 the Fuehrer Decree on this coordination of the Medical Service and the Official Instructions for the new Chief of the Wehrmacht Medical Service could be issued, with the noteworthy characteristics that the Army Medical Inspector, who was already at the same time performing the duties of an army surgeon was now to take over the duties of the Chief of the Wehrmacht Medical Service as well. Second, the measure that a special chief of staff for the Chief of the Wehrmacht Medical Service to deal with Wehrmacht affairs was to be appointed. This was how these two regulations were issued.

Now, the difficulties which you spoke of, the differences existing before the decree was issued, were they expressed in the formulation of the official instructions? Will you please explain that in connection with the tasks or functions of the Wehrmacht Medical Chief, according to the decree and the official instructions?

A. These difficulties, as I already said, already indicated in speech of the preliminary discussions, were doubtless expressed in the official instructions. They were even expressed in the Fuehrer's Decree which contains a preamble which assumed that the coordination in the field of personnel and materials was the main thing. The Fuehrer's Decree also contained much limitation of important instructions concerning the Waffen SS. It said that the Chief of the Wehrmacht Medical Service in basic questions of the Medical Service of the Waffen SS could act only with the previous approval of the Medical Chief of the Waffen SS to give any orders. This in effect meant a previous agreement and one may add that in effect, as far as the other branches of the Wehrmacht are concerned, this was the situation from the very beginning. Generally it came only to orders issued by the Chief of the Wehrmacht Medical Service when there had been preliminary discussions on basic questions between those concerned. This whole solution was to a certain extent a compromise to a quite considerable extent and this compromise is expressed in the fact that the official instructions, which I helped to draw up, were relatively brief and were also in relatively general terms. First it stated that the holder of the office, that is, the future Chief of the Wehrmacht Medical Service in Wehrmacht matters, was under the Chief of the High Command of the Wehrmacht, which meant that the Chief of the Wehrmacht Medical Service was under three authorities, under the Chief of the High Command of the Wehrmacht for Wehrmacht questions, under the Chief of the General Staff for questions concerning the field army, under the Commander of the Reserve who was Generaloberarzt Frohn, at that time, for questions concerning the reserve army. The official instructions in general form then said that the Chief of the Wehrmacht Medical Service was to direct and manage the Wehrmacht Medical Service in questions concerning the Wehrmacht branch

jointly, and I may perhaps, if this is desired, go into the question of whether such general questions were at that time. Primarily, as has been repeated, said, it is the question of coordinating materials and personnel, then the question of volunteer nurses, combating epidemics, and perhaps hospitals or similar questions, which saving of personnel and materials could be effected by the coordination, and in which simplification could be effected.

Q. Now, may I intervene here to speak of epidemic control, which is especially interesting here. Does that mean that research was under the Chief of Wehrmacht Medical Service - that that was one of the duties?

A. As far as I remember, this question played no role at all at that time. The questions which needed coordination were personnel and materials. I think I can recall that the question of research was not mentioned at all in these instructions. This is indicated also by the circumstance that we had recognized this coordination for quite different reasons and that these instructions were of quite a general nature and quite brief and did not go into details at all. To that extent this question was certainly not in the foreground, certainly not too much.

Q. Now, will you please say who or what was under the Chief of the Wehrmacht Medical Service?

A. Nothing really, aside from his own staff, which, of course, was under him. There was really no subordinate relationship mentioned in the instructions. It was only said that the Chief of the Wehrmacht Medical Service in general joint questions was to act on behalf of the Chief of the High Command of the Wehrmacht and give instructions to the Medical Chief of the medical branches of the Wehrmacht, not orders in the actual sense, but directives. There was a frequent distinction in German regulations between orders and instructions. This is a general word, a concrete term which was just in the case.

Q. Then the Chief of the Wehrmacht Medical Service directed, as you said, in general the Medical Service concerning those tasks which were recognized as joint ones and which he had taken?

A. Yes.

Q. Secondly, he did not have any power to issue orders in this connection - he could merely issue instructions?

A. Yes.

Q. And you express this authority as the expression of a regulation based on agreement, preliminary agreement?

A. Yes, that is how it was in effect, that there was first agreement and this was necessary because in the strict sense there was not power to issue orders and the Chief of the Wehrmacht Medical Service did not have authority, any means to assert his authority and if we were to avoid that opposition to instructions or failure to follow instructions, it was more practically to sit down around a table before hand and agree on basic questions, so that after the instructions were issued, the work would begin immediately.

Q. Now, a concrete question. Was the defendant Handloser, as Chief of the Wehrmacht Medical Service, in charge of the research institutes of the Wehrmacht and the Weissen SS?

A. Not according to the instructions, nothing was under him. The research institutes, I think that remained under the chief of the various branches of the Wehrmacht.

Q. Now, how could the Chief of the Wehrmacht Medical Service, in order to realize his duties, obtain any concrete basis for his position, for his office?

A. I have already described that in part. In order to be able to work, he needed material from the various branches of the Wehrmacht and the instructions provided that the branches of the Wehrmacht had the duty to give information in such general matters. According to the instructions this referred only to matters which affected all branches of the Wehrmacht not anything specifically belonging to the Luftwaffe or the Navy, which concerned this particular branch of the Wehrmacht, only things which affected all branches of the Wehrmacht in the same way.

Q. Now what is the relation to the Medical Service of the Waffen SS, you spoke of the basic restrictions in the decree of 28 July 1942; was this expressed more concretely later on?

A. The instructions, as far as I recall, contained a passage which I believe even restricted the wording of the Fuehrer's decree; the Fuehrer's decree speaks only of the Waffen SS, but I believe that these instructions contained a passage concerning the units of the Waffen SS under the Wehrmacht or something like that and the organizations attached to the Wehrmacht, such as the Reich Labor Service, or the OT or something like that. As far as I recall, there was such a passage in these instructions of 1942.

Q. Now, in order to make a clear picture of the relations between 1942 and September 1, 1944, the second decree concerning the Chief of the Wehrmacht Medical Service and the second official instructions; I will ask you to look at the decree and the instructions of 7 August, 1944, which I have already given to you. This is Document No. 227 and Exhibit No. 6 of the Prosecution. We will get a clear picture if you will discuss the individual parts of these instructions and tell us, as far as you can remember what the instructions of 1942 said, then it will be clearly shown how strong the position of the Chief of the Wehrmacht Medical Service was in 1942 and how it was to be according to the decree of 1944. Please begin with Instruction 1.

A. First, I believe I may say in general

MR. HARDY: May I request Dr. Nolte to tell how long it is going to take for this extended examination. We have had this same material put to the Defendants Brandt and Handloser and several other witnesses. It is repetitious and taking up the time of the Tribunal. I think we should shorten up the examination and make it as brief as possible.

THE PRESIDENT: I am sure that the counsel for the defendant Handloser does not want to waste any time and it seems to me the testimony of the witness is rather enlightening and without unduly extending this examination it may proceed.

BY DR. NELTE:

Q. Briefly comment on each individual part and point out the differences.

A. First, externally, these regulations of 1944 are much longer, three and one half typewritten pages, while the regulations of 1942 were hardly more than one page.

In figure one there is something new as against the regulation of 1942, that is the matter of disciplinary action. It does not define who is under the Chief of the Wehrmacht Medical Service and I consider this sentence merely on paper without any practical effect. In the Regulation of 1942, we also had no supervisory authority of the Chief of the Wehrmacht Medical Service, no real inspection right in the narrow sense.

Q. Now, concretely, may I ask you the question of the powers that we spoke of before as orders, instructions and directions, as expressed in I - 2?

A. This regulation is distinguished from the first; it no longer speaks of instructions but authority according to No. 1 of the Fuehrer decree. This Fuehrer decree says that in the technical field, orders can be given. This is a basic difference as against 1942.

Q. What does this power to issue orders mean?

A. Purely in the medical field; in the field of the medical service, not the power to intervene in military matters. That is clear as the medical service is limited to matters, which affect the various problems of the Wehrmacht jointly.

Q. May I ask you to repeat that official matters in the medical service were limited to those fields in which the Chief of the Wehrmacht Medical Service was in charge, which affected all members of the Wehrmacht jointly. Please tell whether this question of joint tasks is also settled in this service regulation; that it does not contain general authority?

A. Under II, in this regulation it is said in much more detail what individual duties are considered joint or common duties. The first regulation spoke quite generally on this subject, for example, here under 2-A, there is quite a new formulation.

The authorities of all scientific medical institutes, academies and other medical institutions of the services of the Wehrmacht and of the Waffen SS are under 2-B in that was not in the first version, but I must say that this is only a compromise because these institutes were not subordinate. There is no talk of subordination here, it says under the Chief of the Medical Service, under the Chief of the High Command of the Wehrmacht, but it does not say who was under the Chief of the Medical Service, so apparently this question was intentionally avoided, otherwise it was customary to make these things clear in such regulations.

Q. In the Military Medical Service, it is a matter of course that where there is a position of subordination, this is clearly expressed

A. That was always clearly expressed in the service regulations, which I remember. In the regulations for the army, for example, the tasks of the Army Medical Inspectorate are mentioned in one point and it is immediately listed who is under him, the medical officers, the non-commissioned officers, the men, etc. I have seen that in that form in many such regulations and there is a special regulation about ranks where that is determined specifically.

Q. Now, may I say where it is not specifically said that there is a relationship of superior and subordinate, then there is no authority to issue orders in General?

A. That is my opinion.

Q. Now, one could have to assume that the specialized authorities issued orders where it applied to the institutes and academies, etc., and there it says again the Waffen SS; how about the Waffen SS according to this regulation?

A. Here it says at the bottom in this footnote that the Wehrmacht includes only the units under the Wehrmacht, the units of the Waffen SS.

Q. Then it remains the same?

A. Yes, in effect it remains the same. I do not know whether the Waffen SS, as far as its units were under the Wehrmacht, had any institutes.

Q. Will you please look at 11, 4-A, where it says that other duties of the Chief of the Medical Service of the Wehrmacht will be in the medical scientific field, uniform measures in the field of health guidance, research and the combatting of epidemics and all medical measures which require a uniform ruling among the Wehrmacht; was this ruling also in 1942?

A. No, it was not included in 1942 in this form?

Q. May one conclude that from the 1st of September 1944 the Chief of the Wehrmacht Medical Service not only could combat epidemics but also in addition could intervene in the research work carried on by the individual branches of the Wehrmacht?

A. That seems quite improbable to me from the situation. For example if the Luftwaffe planned some research which affected only that branch of Wehrmacht ...

Q. No, no, I mean only if these are things which affected the common interest; For example, hepatitis epidemica, which you know, or typhus. Is this research a question which can be uniformly regulated?

A. No, the uniform regulation of research would not serve the achievement of favorable results. In my opinion one can issue assignments on research and one can say we are not satisfied with the drug or that serum, or that which we have is not sufficient and suggest that these things be improved but much cannot be done centrally. A research worker, who receives such a suggestion, will first have to try for himself the methods which he will have to come to a result. Perhaps he will take two or three wrong paths, which will not lead to the goal. In my opinion this example shows even to a layman that research cannot be bridled in this form but must have a certain freedom.

Q. Will you please tell us under the rest of the regulations, especially under III, what differences there are as against the regulations of 1942?

A. No. 1 was contained in 1942 according to the same sense and perhaps under the same wording. No. 2 is new, completely new. No. 3 was contained in part in a similar form in the regulation of 1942, regarding the restriction of power of inspection. I believe that this was expressed in a similar form with the same restriction in 1942, but it is quite new that the Chief of Wehrmacht Medical Service is to have the authority to issue orders on the spot in the field of medical service if these are necessary for the removal of an emergency and do not disagree with fundamental orders of the branch of the Wehrmacht, that is also any power to issue orders on the spot. As to this right of inspection I must say that in my opinion it is very limited.

cause one must first ask the branches of the Wehrmacht if he can go there. He had no power to issue orders, no power of supervision and such inspection trips could only have been for the purpose of personal observation and, no doubt, this was to be adjusted by this new sentence, which I have quoted and which in itself contains two such strong limitations which I would not have enjoyed as Chief of the Wehrmacht Medical Service inspecting a branch of the Wehrmacht.

Q. Now if I ask you how does the regulation of 1944 in the decisive points differ from the regulation of 1942, please tell me that in a few words. Sum it up.

A. The essential parts are a more detailed description of the fields of work, a limited power to issue orders, for the first regulation spoke only of instructions; a certain influence on the appointments to physicians, Generalarzt, and a certain power to issue orders on the spot during inspection in case of emergency. These are the essential points, in my opinion.

Q. Now concerning research I must ask the question, in what way was the medical service of the Waffen SS after 1942 and after 1944 under the chief of the Wehrmacht medical service?

A. It was not under him. I cannot see any subordination from this regulation and not only do I not remember it from 1942, but it did not exist, as it says he could not give instructions concerning the branches of the Wehrmacht, concerning the units of the Waffen SS under the Wehrmacht. There was no subordination. He could merely issue instructions. There were similar relations between the high command of the Wehrmacht and branches of the Wehrmacht. That must have been more or less coordinated. The chief of the high command of the Wehrmacht could not give any orders to the Wehrmacht branches. They were not under him.

Q. I merely want to make that clear. Now the second question which I want to ask you is this: Were the research institutes of the SS and the Waffen SS in 1942 under him, or was there any power to issue instructions, and was there power to issue technical orders in 1944?

A. In 1942, as far as I remember the regulation of 1942, I do not believe there was any power to issue instructions to institutes of the Waffen

SS, and in the regulation of 1944 it depends on whether they were institutes with the units of the Waffen SS under the Wehrmacht. Otherwise the Waffen SS was not under him and the institutes of the Waffen SS could not be under him, but whether these units of the Waffen SS had such institutes, I cannot say from my own knowledge.

Q. Was there a general supervisory right of the chief of the Wehrmacht medical service?

A. No.

Q. Is the supervisory right connected with any other powers?

A. Yes, generally with the disciplinary authority. Supervision remained with the branches of the Wehrmacht themselves, the chiefs of the medical service in this case.

Q. Then I may conclude the questions on this subject, and, Mr. President I have an affidavit from this witness. I have submitted it as Exhibit 20, Document HA 40, in Document Book 2, Page 60. I do not want to repeat this affidavit here. It has already been read in part. I merely want to ask you whether the statements which you made there about the tasks of the Army Mountain Medical School and the Mountain Physiological Institute in St. Johann, whether you acknowledge them as right here under oath.

A. Yes.

Q. Not to repeat the examination of this witness on consulting physicians, I show the witness Hartleben HA 18 Exhibit 8, Document Book 1, Page 32, and I ask you, witness, have you read this statement of Professor Handloser?

A. I have read the whole document book, but I do not know from the number which one it is.

Q. It says "The institution of consulting physicians."

A. Yes. Yes, I read that one.

Q. Can you confirm the contents of this affidavit?

A. Yes, fully.

Q. And finally I have given you Document HA 2, Exhibit 37, Document

Book 1, Page 5 and following and ask you to read it, the statements about necessity and purpose of the meetings of the consulting specialists, that is, the meetings of the consulting specialists. Have you read this statement?

A. Yes.

Q. Can you confirm the correctness of these statements from your own knowledge?

A. I can confirm it from my own knowledge.

Q. Then in conclusion I should only like to ask you, what is your opinion of Professor Handloser, and in particular, his attitude on medical ethics?

A. In my affidavit of the 13th of December, which has just been mentioned, I spoke on this question and I pointed out that Professor Handloser was always primarily interested in the outstanding medical achievement and conduct of his medical officers. Perhaps I may underline this by saying that, for example, he was sharply opposed to having the rank names of the medical officers changed. The word "physician", "Arzt" is always included in the name in the German army, Stabsarzt, Generalarzt. Efforts were made to change these names, to say "Captain" instead of "Stabsarzt" or "Lt. Colonel" instead of "Oberfeldarzt." He always opposed such efforts because he was of the opinion that our title was to show primarily our capacity as a doctor. I have seldom had a superior who was so painfully conscientious in all medical questions; none was more interested in these things and who, as a

superior, weighed his decisions so carefully. I have known Professor Handloser for thirteen or fourteen years. I was in close contact with him for years, and I believe that I am in a position to pass judgment on his personality. I can only say that in view of his exemplary medical attitude, it is my firm conviction that any medically ethically inadmissible experiments could not have been known to him. He would have endangered the whole aim of his life as a physician, and his whole attitude would have had to be changed suddenly. But that does not happen at his age. Therefore I believe that if he had learned of such things he would have objected as far as he had the opportunity.

DR. NELTE: I thank you. I have no further questions to this witness
BY THE PRESIDENT:

Q. Witness, were the army regulations of the German army published in printed form prior to 1939?

A. I do not quite understand what regulations you mean. If I might ask you to explain a little?

Q. There are certain regulations published, I assume, or issued by the proper authority of the government for every army. In the States they are called the Army Regulations. I do not know what they are called in Germany, but in the United States they are printed in a book form, Army Regulations, general laws governing the members of the Armed Forces of the Army. Was there anything similar to that printed in Germany for the benefit and instruction of the German Army?

A. Yes, the regulations of the German army existed -- always -- existed in a printed form, or at least mimeographed form, and were not published by the

government, but they were issued by the high command, that is, the War Ministry, originally; later, by the high command of the Wehrmacht for the Wehrmacht and by the high command of the army for the army and they were signed, in general, according to the significance, usually by the commander in chief of the branch of the Wehrmacht, but in this case by the commander in chief of the army.

Q. What were these regulations called? What was the title of them?

A. The titles varied. There were a large number of regulations. Some of them were still being worked on. For example --

Q. Well, were these regulations never assembled and printed in one volume?

A. They were too extensive for that. There were many hundreds of regulations, but they were in a special folder with an index giving the titles of the various regulations.

Q. What was the name, the generic group name, of these regulations?

A. There was no general title. They were Army Service Regulations, Heeres Vorschriften, HDV, Number so and so. Then there was the Title giving the contents of these specific regulations, rank and superior relationships in the army, and disciplinary penalties. There was a medical war regulation or instruction book for non-commissioned officers and so forth.

Q. Do you know of any one printed volume in which these things were all assembled and bound together?

A. No. As far as I know, there is no such book.

Q. As to the authority of the Chiefs of the Wehrmacht Medical Service, under the order of 1942, would he have authority to order the senior surgeon medical officer of a regiment or of a brigade to make a report to him upon the health conditions of that organization?

A. That would have been much too long. The Chief of the Medical Wehrmacht Service, in this case if he wanted to know something about a specific regiment, would presumably have turned to the medical chief of that branch of the Wehrmacht and asked him for the necessary information. He was really in no position to do so. He was not really the superior of this regimental doctor in this case.

Q. What orders could he have issued? You said he could have issued some orders to some administrative branch. Do you mean infantry, artillery, or tank corps?

A. A medical officer could not give orders to troops at all. He could only give orders in his specialized field, and that is the field of medicine. He could issue directives on the most favorable treatment of pneumonia, but he could not give the troops any direct orders. Only the military commanders could do that. If he had a wish,

in the medical respect, effecting the troops, he had to ask for an order through the troop commander. He would have to ask the chief of the high command of the Wehrmacht, or as army medical inspector, he would have to ask the Commander of the Reserve Army of Germany. He would issue the order. That is the reason the service regulations always say he is the advisor of his commander in questions of the medical service.

Q. The Chief could issue, I understand, a directive that hereafter pneumonia would be treated in a certain way, so that a certain variety of splint should be attached to cure a broken leg. That would be a directive, would it?

A. Instructions were not issued in this connection. Advice was given. No certain method of treatment was prescribed for the doctor. The main thing was that no mistake was made; whether one doctor preferred one drug and another doctor preferred another drug, was up to the doctor.

Q. It would be a recommendation, not a direction? Is that correct?

A. A recommendation, advise, yes.

Q. What would be the effect of such a recommendation upon the officers to whom it was directed? They would use their own judgment in applying it or would they follow it?

A. You mean the medical officers?

Q. Yes.

A. The medical officers knew that what the higher medical officers told them in this respect was the fruit of medical and scientific experience of the latest years. Therefore, they welcomed such directive or advice, and generally, no doubt, followed it. They were not so limited. If I think about pneumonia, for example, various modern methods of treatment were reported in this booklet and compared with one another. The medical officer had the guarantee that he was advised according to the best medical knowledge.

Q. A directive, then, could be disregarded by a medical officer of a regiment, brigade or division, if in his judgment, the directive was not correct, was not sound in principle?

A. He had that liberty. In that case he probably would have consulted the others.

Q. Did the medical director have authority to direct or order, whatever it should be called, regimental surgeons to make reports to him at monthly intervals about the health of their commands?

A. There was no special instruction needed for this in the medical service. There was quite a definite report system. Every month a report was made by every unit about the state of health. This was done automatically.

Q. Who required that these reports be made? Was that in these army regulations we mentioned?

A. I believe that that was set down in the regulations, but it is possible that there were individual orders. No, I just remember the regulations. There was a regulation about reports for the army which settled this question in detail.

Q. If the Chief of the Service desired, quickly, a certain report upon a certain division, could he send an order to the Chief Surgeon of that division to report to him immediately upon certain health conditions in that division?

A. The Chief of the Wehrmacht Medical Service?

Q. Yes.

A. No. He could not. It would have been easier for him to approach the medical chief of the branch of the Wehrmacht concerned. He would no doubt have had better connections. The basic principles in such things were, as far as I saw it, that the Chief of the Wehrmacht Medical Service when he asked for information, did not go directly to subordinate places, but to the superior of the medical officer from whom he wanted information.

Q. You mean the military superior, not another medical officer, do you not?

A. No. I am afraid we have misunderstood each other. I understood the question to be this: If the Chief of the Wehrmacht Medical Service wanted to have information, to whom would he address himself, directly to the person from whom he wanted information or through channels?

Q. You understood me correctly, but I do not understand you, I think.

THE PRESIDENT: The Tribunal will now recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 20 February 1947 at 0930 hours.)

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